Comprehensive Stormwater Consent

Consent Application

and

Assessment of Effects on the Environment

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Abbreviations and referenced reports

WSP Report	Whakatāne Urban Area Stormwater Catchment Description
Hamill Report	Potential Effects on Ecology and Water Quality, K. D. Hamill 2021
Draft SMP	Whakatāne Comprehensive Stormwater Consent Monitoring Plan: DRAFT
Stormwater Modelling	Whakatāne Urban Stormwater Modelling 25 September 2020
AEP	Annual Exceedance Probability
BOPRC	Bay of Plenty Regional Council
BPO	Best Practicable Option
CBD	Central Business District
CE	Coastal Environment
CMA	Coastal Marine Area
CMP	Whakatāne Urban Stormwater Catchment Management Plan
CSC	Comprehensive Stormwater Consent
ECOP	Engineering Code of Practice 2008
LGA 2002	Local Government Act 2002
MfE	Ministry for the Environment
RCEP	Regional Coastal Environment Plan
RNRP	Regional Natural Resources Plan
RMA	Resource Management Act 1991
SAs	Statutory Acknowledgements
The Council	Whakatāne District Council
District Plan	Whakatāne District Plan

1 Introduction

1.1 Overview

Whakatāne District Council ("**the Council**") seeks a comprehensive stormwater consent ("**CSC**") under the Resource Management Act 1991 ("**RMA**") for existing discharges of stormwater from the Whakatāne Township and associated network structures located in the bed/bank of a river or stream, and/or the Coastal Marine Area ("**CMA**").

During growth of the Whakatāne Township, stormwater systems have been installed which use the natural environment as well as pipes, canals, open drains, overland flow paths, pump stations, floodgates, detention dams, and stormwater ponds to carry rainfall to the nearest waterway. Stormwater from within the catchment/s generally relies on gravity to convey it to the Whakatāne River as fast as possible.

Historically the stormwater systems were designed primarily to maximise stormwater conveyance and minimise flooding. Given Whakatāne is within a flood prone area, the intensity of run-off in significant rainfall events often creates flooding issues. The network includes 14 pumps installed to lift stormwater through the town's stopbanks into the Whakatāne River. Further development and infilling within the catchments will increase the volume of stormwater captured and the rate it enters the network. Given the location and elevation of the catchments and associated discharge points, management of the network is challenging and will require the ability to respond and adapt to evolving climatic pressures.

As the Council plans for the future, modelling has been undertaken to better understand the catchments, overland flow paths, and the existing networks. The design standard of the town's stormwater system is to be sufficient to convey a one-in-ten-year flood event. Recent investigations and modelling are assisting to identify portions of the system that do not meet this standard and determine a level of affordable flood protection that can be provided for Whakatāne's urban areas while taking into account future risks. Recommendations from these studies will help the Council develop a programme to upgrade the network. Upgrades will likely be staged over time, with each programme needing to be approved by the Council, ensuring upgrades are affordable for the community.

The Whakatāne District Plan **("District Plan")** stipulates minimum levels for building platforms and engineering standards for stormwater infrastructure development on private land within the urban catchment. The Council is responsible for the quality of stormwater discharging from the urban environment and is working to educate the community on how to maintain a healthy stormwater network through awareness campaigns, public consultation, and increased interactions with those responsible for high-risk sites.

The Council seeks to consolidate the management of all its stormwater infrastructure within the Whakatāne Township under a single resource consent or CSC. Under the CSC, the network will be managed through the Whakatāne Urban Stormwater Catchment Management Plan ("**CMP**") enabling the entire network to be consented and managed in an integrated and cohesive manner. Ongoing evolution of the stormwater network's design and management will also be enabled to achieve desired outcomes including:

- Minimising stormwater runoff
- improving onsite retention and infiltration
- filtering out debris and litter

- inclusion of natural features within the system
- better supporting ecological diversity
- requiring on-site management appropriate to the products stored on-site
- minimising property inundation and subsequent damage.

Through this application, the Council seeks to develop adaptive processes that are responsive to environmental change and design advancements, while providing for consistency and clarity in relation to maintenance, management, and improvements of the urban stormwater network.

1.2 Background

Subpart 1 of Part 7 of the Local Government Act 2002 ("**LGA 2002"**) requires the Council, as a territorial authority ("**TA**"), to periodically assess drinking water, wastewater, and sanitary services. In particular, section 128 of the LGA 2002 requires that:

(1) A territorial authority must assess the provision within its district of—
(a) wastewater services; and
(b) other sanitary services.
(2) The purpose of an assessment under subsection (1) is to assess, from a public health perspective, the adequacy of wastewater services and other sanitary services available to communities within a territorial authority's district, in light of—
(a) the health risks to communities arising from any absence of, or deficiency in, the services; and
(b) the quality of the services currently available to communities within the district; and
(c) the current and estimated future demands for any of those services; and
(d) the actual or potential consequences of stormwater and sewage discharges within the district.
(3) One type of service may be assessed in conjunction with another type of service.

There is no statutory requirement for TAs to provide public stormwater drainage works, but in practice the service is provided as a 'public good'. The requirements of section 35(5)(j) of the RMA and those identified above in the LGA 2002 mean that the Council is ideally placed to have long term observational data and modelling to show areas affected by inundation or flooding and provide a local stormwater service that is capable of managing it. All discharge activities relating to stormwater drainage are subject to the provisions of the RMA and the relevant national and regional statutory planning instruments.

1.2.1 Previous authorisation

There are numerous stormwater discharges, and associated outfall structures, in the Whakatāne urban area that were constructed prior to the RMA coming into force in 1991. These discharges and structures were deemed to have existing use rights under the Water and Soil Conservation Act 1967 and the transitional provisions of the RMA until 1 October 2001. After that date, authorisation of stormwater discharges and associated structures deemed to have existing use rights expired.

The Council applied for a bulk consent to cover all these discharges and structures on 30 March 2001. The application (number 61180) sought a single consent for the numerous discharges and associated structures which were, until October 2001, deemed to have existing use rights.

Bay of Plenty Regional Council ("**BOPRC"**) placed the application on hold until a catchment management plan(s) had been prepared. In the meantime, the discharges and associated structures listed in the bulk application are subject to s124 of the RMA, which allows for existing authorised activities to continue until a new consent is granted.

1.2.2 Why a CSC is being sought

Since the RMA's promulgation, stormwater discharges and associated structures have been considered and consented by BOPRC on a case-by-case basis. This meant that the Council and private developers applied for consent for each urban stormwater discharge when required under the relevant regional plan. Consents from developers were then transferred to the Council when the development infrastructure passed to the Council's ownership. This has resulted in the Council holding multiple individual consents, all with different conditions, monitoring regimes, and expiry dates.

Once the CSC is granted, it is the Council's preference that no resource consents will be held by third parties for stormwater discharges to the stormwater network. Instead, these will fall within the CSC and be managed by the Council in accordance with CSC provisions and the Combined Waters Bylaw 2017.

1.2.3 Use of adaptive management

The Council proposes to use adaptive management principles in the ongoing management and monitoring of the stormwater network. The use of adaptive management principles facilitates risk management and the protection of identified environmental values while enabling development and/or use. To support this request, the Council has provided:

- reliable baseline information on the receiving environment/s and existing stormwater discharges
- a proposed monitoring plan which requires effective monitoring of the receiving environment using appropriate environmental indicators
- limits/trigger levels to compare monitoring against, to detect effects before they become damaging
- remedial actions that can be taken to avoid, remedy, or mitigate any adverse effects.

The Council has drafted a cohesive set of management plans and will manage, monitor, respond to, and amend these plans in a cyclic manner, consistent with adaptive management principles.

A CMP will provide the Council with flexibility in determining the most appropriate manner to manage the catchments while ensuring any adverse effects are avoided or mitigated appropriately. The CMP (refer to Appendix **5**) describes the natural and physical characteristics of the Whakatāne urban catchment, as well as the constraints that control the form and intensity of land use, built form, and appropriate stormwater. The ability to modify how adverse effects are managed will enable the Council to better respond if monitoring indicates limits and/or trigger levels for specific parameters are being reached or exceeded.

1.3 Project overview

The term "Whakatāne Urban Stormwater Network" is used throughout this document and refers to the collective sub-catchments and stormwater infrastructure described in the report titled Whakatāne Urban Area, Stormwater Catchment Description ("**WSP Report**"), which is included as Appendix 1.

The Whakatāne Urban Stormwater Network includes the Whakatāne Township and central business district ("**CBD"**), the coastal development of Coastlands/Piripai, the residential development centred around Shaw Road, and the commercial and industrial areas of The Hub and Gateway Drive. It incorporates all the residential and commercial land in Whakatāne that drains indirectly or directly to the Whakatāne River and areas characterised by high levels of ground soakage (e.g. Piripai).

The majority of the Whakatāne Township, including the CBD, is located on the floodplain of the Whakatāne River and is reliant on flood protection from the Whakatāne River floodwaters. This protection includes major stopbanks, floodwalls, riverbank protection works, and other river scheme infrastructure. The infrastructure is included within the Whakatāne-Tauranga Rivers Scheme. Management and maintenance of this critical infrastructure is the responsibility of BOPRC.

The Whakatāne-Tauranga Rivers Scheme protects the town from a 1% Annual Exceedance Probability ("**AEP**") Whakatāne River flood. The river stopbanks are designed to first spill to the rural (western) side away from the town. The true right bank (eastern / township side) is 300 mm higher than the true left bank (western side). While the stopbanks have been designed to protect from a 1% AEP river event, they can potentially fail to protect from higher probability events.

The Council is responsible for managing urban stormwater within the stopbanks (township side). The wider Whakatāne urban stormwater catchment has been split into sub-catchments ("**SCs"**) for the purpose of hydraulic modelling, consideration of flood levels, and stormwater management. The SCs are described in section 2 and shown in Figure 1.

The nine SCs are:

i. Apanui
ii. Hinemoa
iii. Whakatāne South
iv. Wainui Te Whara
v. Awatapu
vi. Wairaka
vii. Wairere
viii. Coastlands Ōpihi
ix. Whakatāne West.

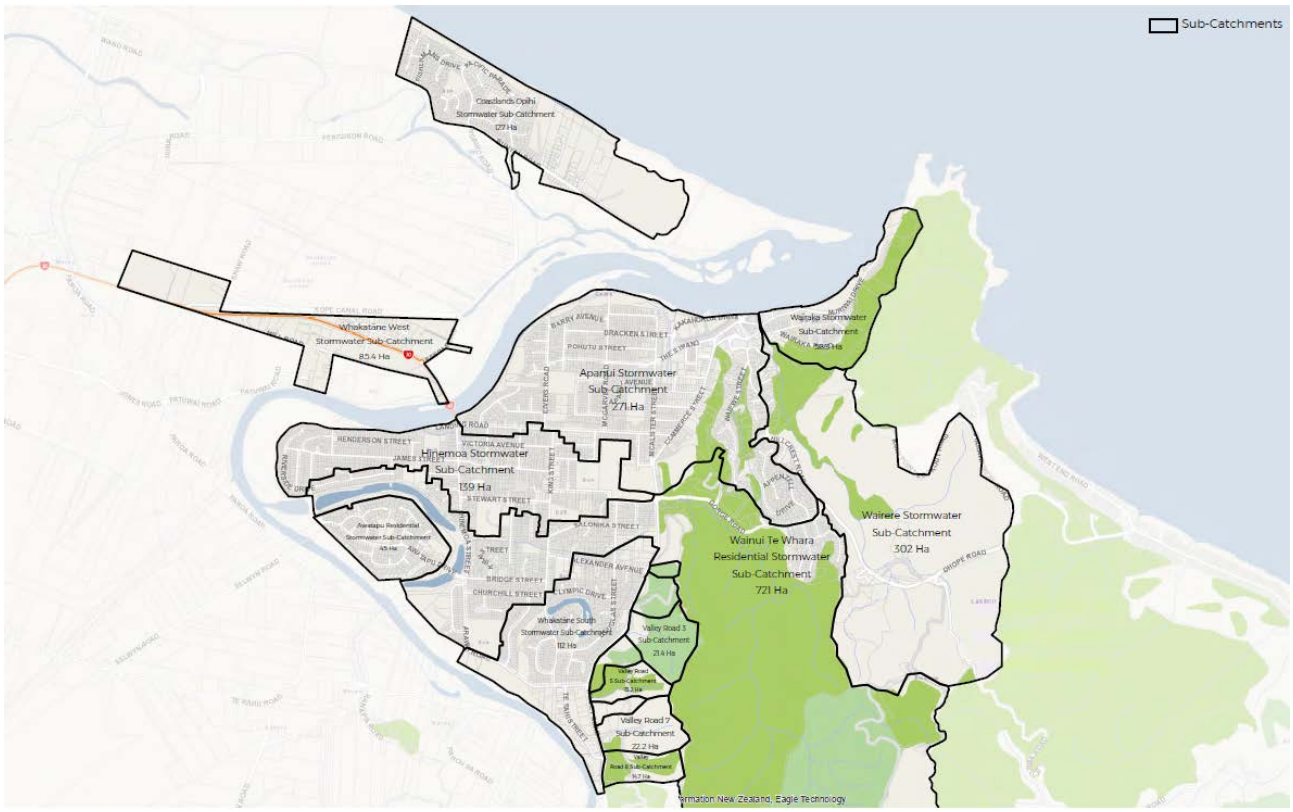

Figure 1: Whakatāne urban stormwater sub-catchments

1.3.1 Land use within catchments

The predominant land use in the area east and south of the Whakatāne River is residential. This area also contains two areas of land zoned Business Centre in the District Plan, focused around The Strand (Whakatāne town centre) and King Street (Kōpeōpeō centre). Residential development also predominates the Coastlands/Piripai SC and is located around Shaw Road within the Whakatāne West SC.

Industrial activity is located in the Whakatāne South and Whakatāne West SCs in areas zoned Light Industrial. These areas are characterised by larger sites with a high proportion of impermeable surface, including contracting company yards, workshops, and the Council's Transfer and Recycling Centre in the Whakatāne South SC. These activities are associated with a higher stormwater water quality risk. The Whakatāne West SC excludes the Whakatāne Mill site (zoned Industrial), located between the Whakatāne River and a large-scale retail complex known as "The Hub". The Whakatāne Mill holds its own stormwater consents for discharging into the Whakatāne River and is not included within the scope of the CMP.

The Hub was developed in 2006 on land formerly occupied by Carter Holt Harvey Limited, between State Highway 30 and the Whakatāne River. This area is zoned Large Format Retail in the District Plan.

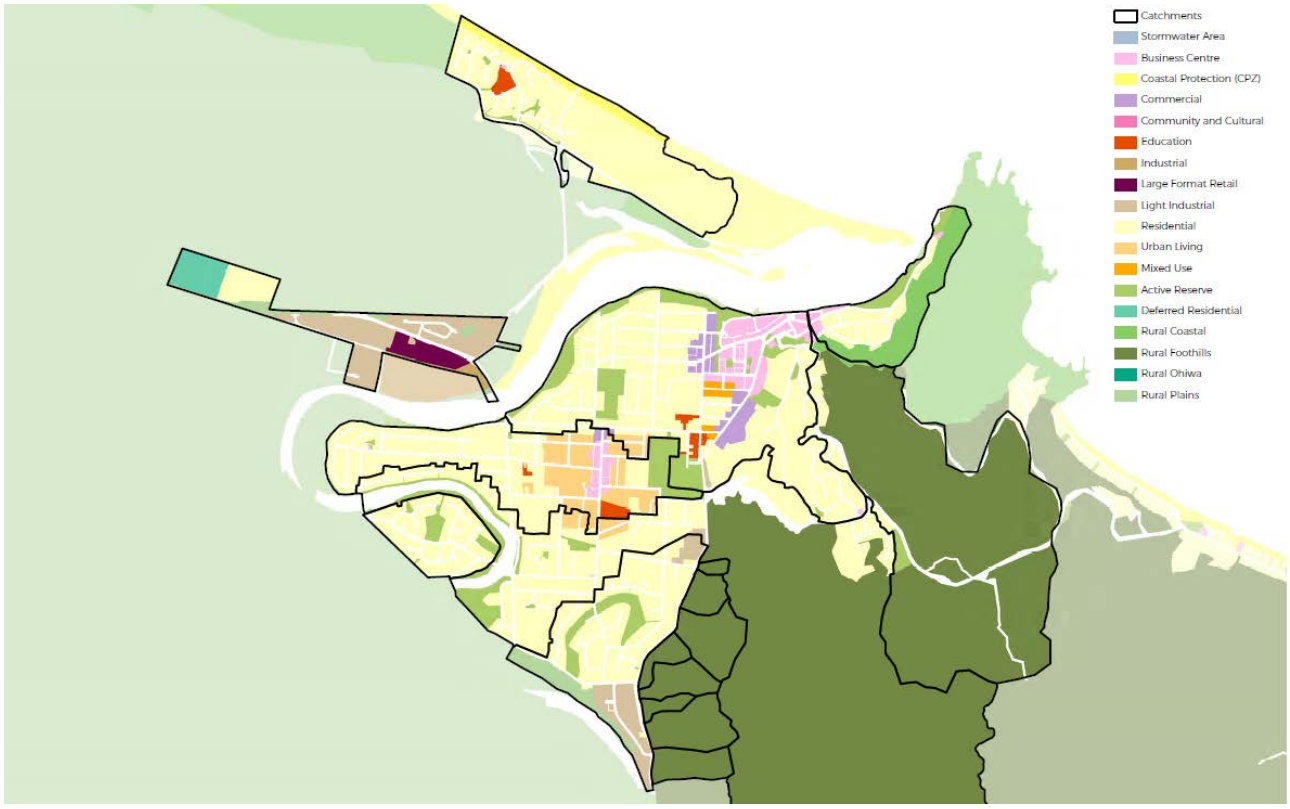

Figure 2: District Plan zones with SCs overlain

1.3.2 Overall purpose of the stormwater network

The stormwater network's purpose is to provide stormwater drainage and reticulation to the identified SCs in a comprehensive and integrated manner. The intention is for the network to meet the levels of service in the Engineering Code of Practice ("**ECOP**") while being consistent with the objectives as defined in the CMP.

1.3.2.1 Levels of service

The Council has developed three key levels of service to guide management of the stormwater network:

- The Council will provide protection for the community from at least 1 in 50 year (2% AEP) flood events where it is practicable and feasible.
- New developments require a primary system capable of disposal of surface water resulting from a 10% AEP storm event as per the ECOP.
- New developments require a secondary flow system capable of carrying surface water resulting from a 1% AEP storm to ensure that such surface water shall not enter buildings as per the ECOP and land development requirements of the District Plan.

These levels of service are used to inform the planning for the overall network, guiding the Council in its efforts to upgrade the existing infrastructure, and ensuring any new developments are suitably sized and designed. There are aspects of the existing system that do not meet these levels of service and addressing these is one of the major drivers for the Council's stormwater projects. The Council has identified key stormwater projects via its Long Term Plan ("**LTP**") development process. Future upgrades will be identified and approved via the same LTP process. These projects and their timing will be identified within the CMP.

1.3.2.2 Catchment objectives

The Council aims to take a comprehensive and integrated approach to the planning and management of the quantity and quality of stormwater runoff/discharges and associated stormwater infrastructure within the Whakatāne urban catchment area. To help achieve this, the Council has developed the following 10 objectives to be adopted within the CMP:

1. Provide a safe, affordable and resilient stormwater system
2. Reduce flooding and protect the community
3. Facilitate tāngata whenua and community involvement in stormwater management, including encouragement to take actions to reduce pollution and to maintain and restore ecosystem health
4. Recognise and respect Mana Motuhake - the Whakapapa and relationship that mana whenua have with water ecosystems in their rohe
5. Protect and enhance ecosystem health of all receiving environments
6. Co-design with nature, an integrated and regenerative approach to stormwater management and urban design where possible
7. Address pressures on water bodies at or close to source
8. Collect and share information to promote common understanding of urban water issues, solutions and values
9. Increase resilience to natural hazards and climate change
10. Encourage water reuse.

1.3.3 What is proposed

The Council seeks to authorise the discharges and structures in the nine Whakatāne urban sub-catchments via a CSC. The stormwater network would then be managed largely via a CMP. The CSC will not authorise physical works associated with the construction of new infrastructure that do not meet permitted activity standards. These will require a separate consent application.

The relationship between the CMP and various other components of the system that the Council uses to manage stormwater is shown in **Figure 3**.

As identified in section 5.3.3 of the Asset Management Plan Part B: Stormwater Drainage ("**stormwater AMP**", included as Appendix **7**), through the CMP and the CSC process, the Council plans to achieve the following key outcomes:

1. Reduce the risks and mitigate the effects of stormwater flooding on the Whakatāne urban built environment to help protect the health and safety of the people of Whakatāne, their land, and property. The built environment includes private and public property and infrastructure. *Examples of the public infrastructure include district urban roads and the sewerage network.*
2. Minimise the rate of urban stormwater discharge to waterways where this is appropriate, realistic and cost effective.
3. Avoid, remedy or mitigate adverse effects of stormwater discharges on rivers, streams, wetlands and aquatic ecosystems.
4. Ensure stormwater discharge does not degrade the water quality in the receiving environments.
5. Streamline and simplify the administration of, and compliance with, consents for stormwater discharge.

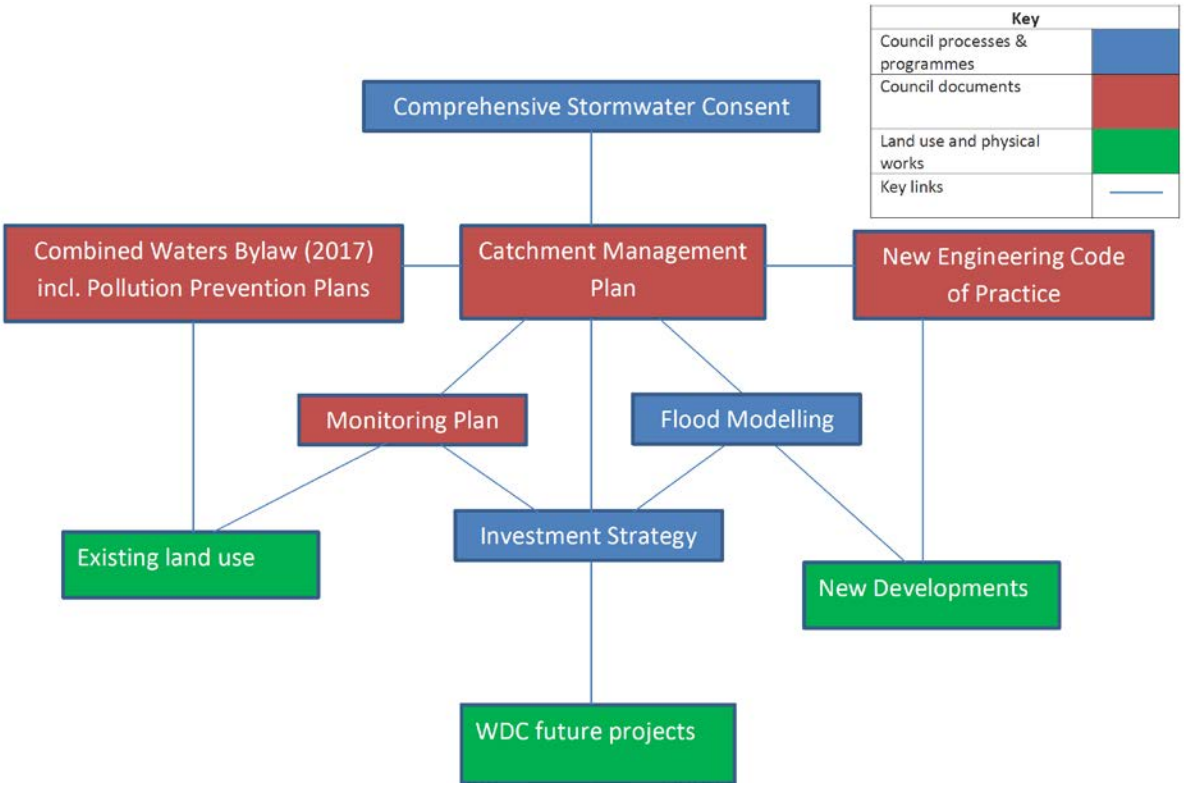

Figure 3: Key elements of the CSC process

1.4 Purpose of consent application

The purpose of this consent application is to aggregate several existing resource consents associated with the Council's stormwater network into one consent. It also seeks to provide a pathway for any future land developments associated with the Whakatāne Township to be incorporated into the resultant consent. In addition, this document: describes the Council's stormwater system and its receiving environment; details the process/consultation undertaken to arrive at the proposed option/s; and describes the proposed management of the system, now and into the future. Appendix 6 lists existing resource consents held by the Council that are to be incorporated into this CSC.

1.4.1 Resource consents sought

The Council seeks all necessary resource consents from BOPRC to authorise the operation and maintenance of the Whakatāne Urban Stormwater Network, including the discharge of stormwater and urban runoff and the use[1] of associated structures under the RMA, the National Environmental Standards for Freshwater ("**NES-F"**), Regional Coastal Environment Plan ("**RCEP**"), and the Regional Natural Resources Plan ("**RNRP**"). The applicable rules are identified in section 9.3. The consent application is a discretionary activity under the RCEP and RNRP. The maximum consent term of 35 years is sought.

[1] *in sections 9, 10, 10A, 10B, 81(2), 176(1)(b)(i), and 193(a), means—*

(i) alter, demolish, erect, extend, place, reconstruct, remove, or use a structure or part of a structure in, on, under, or over land:
(ii) drill, excavate, or tunnel land or disturb land in a similar way:
(iii) damage, destroy, or disturb the habitats of plants or animals in, on, or under land:
(iv) deposit a substance in, on, or under land:
(v) *any other use of land; […]*

1.4.2 S95 request – public notification

The Council requests public notification of this consent application as per s95A(3)(a) of the RMA.

1.4.3 Supporting technical reports

The following reports have been used to compile this consent application and are included as appendices.

- Appendix 1: Whakatāne Urban Area Stormwater Catchment Description – WSP ("**WSP Report"**)
- 0: Whakatāne Comprehensive Stormwater Consent: Potential Effects on Ecology and Water Quality – K. D. Hamill ("**Hamill Report"**)
- 0: Whakatāne Comprehensive Stormwater Consent Monitoring Plan: DRAFT – K. D. Hamill ("**draft SMP**").

2 Existing environment

2.1 Overview

Stormwater runoff from urban areas contains a range of contaminants derived from activities in the catchment including litter, pollutants from roads and carparks, paints, oils, grease, coolants, unwanted chemicals, domestic car wash runoff, and runoff from house and roof washing.

Untreated stormwater can potentially reduce water quality by carrying with it sediment, nutrients, pathogens, heavy metals, and petroleum products. Nutrients can stimulate prolific phytoplankton and periphyton growth, which can cause large fluctuations in dissolved oxygen and pH as a result of photosynthetic activity. The microbiological quality of runoff is often poor with high bacteria levels sourced from animal excrement and (potentially) sewage overflows (in heavy rain events).

Table 1: Stormwater contaminants

Category	Constituents	Possible sources	Reason for concern
Microbiological	▪ As indicated by indicator organisms *E. coli (Escherichia coli)*, *Enterococci*, faecal coliform bacteria	▪ Animal excrement (dogs) on roadsides, birds ▪ Overflows or leaks from sewerage reticulation	▪ Health effects for people contacting the water
Sediment	▪ Soil and grit particles	▪ Unsealed yards and roads ▪ Earthworks sites ▪ Dust from pavements	▪ Smothers stream beds and kills invertebrate life ▪ Reduces water clarity ▪ Can contain heavy metals
Litter	▪ Plastics, bottles and rubbish	▪ Street litter, illegal dumping in drains and streams	▪ Unsightly ▪ Leaching of constituent chemicals ▪ Pipe and culvert blockages
Nutrients	▪ Ammoniacal nitrogen, nitrate/nitrite nitrogen, phosphorus	▪ Animal excrement (dogs) on roadsides ▪ Overflows or leaks from sewerage reticulation ▪ Runoff from parks and gardens with fertiliser ▪ Leaf litter especially during autumn – breakdown products including nutrients and tannins ▪ Contaminants including detergents from car/boat washing (phosphorus) ▪ Contaminants from roof and exterior cleaning – chemicals used and pollutants washed off	▪ Promotes algae and weed growth ▪ Lowers dissolved oxygen levels ▪ Toxicity effects from ammoniacal nitrogen or nitrate

Category	Constituents	Possible sources	Reason for concern
Heavy metals	▪ Commonly zinc, copper, lead, nickel	▪ Corrosion of roofing (zinc) ▪ Vehicles/tyres (zinc, copper) ▪ Past use of lead-based paints and lead in petrol	▪ Toxic effects on stream life and shellfish
Petroleum hydrocarbons	▪ Oil and diesel residues ▪ Vehicle emissions ▪ paint thinners	▪ Leakage from vehicles ▪ Improper disposal of used oil ▪ Domestic vehicle washing and cleaning ▪ Improper disposal of domestic paint residues	▪ Unsightly surface films ▪ Toxicity, restricts oxygen transfer

The amount of contamination in stormwater at any particular time will vary widely depending upon factors such as:

- rainfall: the "first flush" of rain after a dry spell will contain much higher contaminant loads as accumulated material is washed away off roads and yards; conversely in wet weather, stormwater will be lower in some contaminants such as metals and oils, but may be higher in suspended solids if erosion is taking place due to high flows
- construction activity in the catchment: a developing area will yield much higher levels of sediment than an established area
- incidence of one-off spills (such as from fuel tanks of vehicles involved in collisions) or improper disposals.

This variability makes monitoring and quantifying contaminant loads from urban stormwater difficult, as samples taken from the same location can give measurably different results depending on the conditions at the time of sampling.

2.2 Built environment

The stormwater network largely services the developed urban areas of the Whakatāne Township. However, there are a couple of upper catchments that contribute to some discreet sub-catchments. As discussed previously and shown in Figure 1, the network has been divided into nine separate SCs for management purposes:

- Apanui
- Hinemoa
- Whakatāne South
- Wainui Te Whara
- Awatapu
- Wairaka
- Wairere
- Coastlands Ōpihi
- Whakatāne West.

The following descriptions (from the WSP Report in Appendix 1) set out the catchment sizes, general layout, composition, land use activities, and existing stormwater infrastructure.

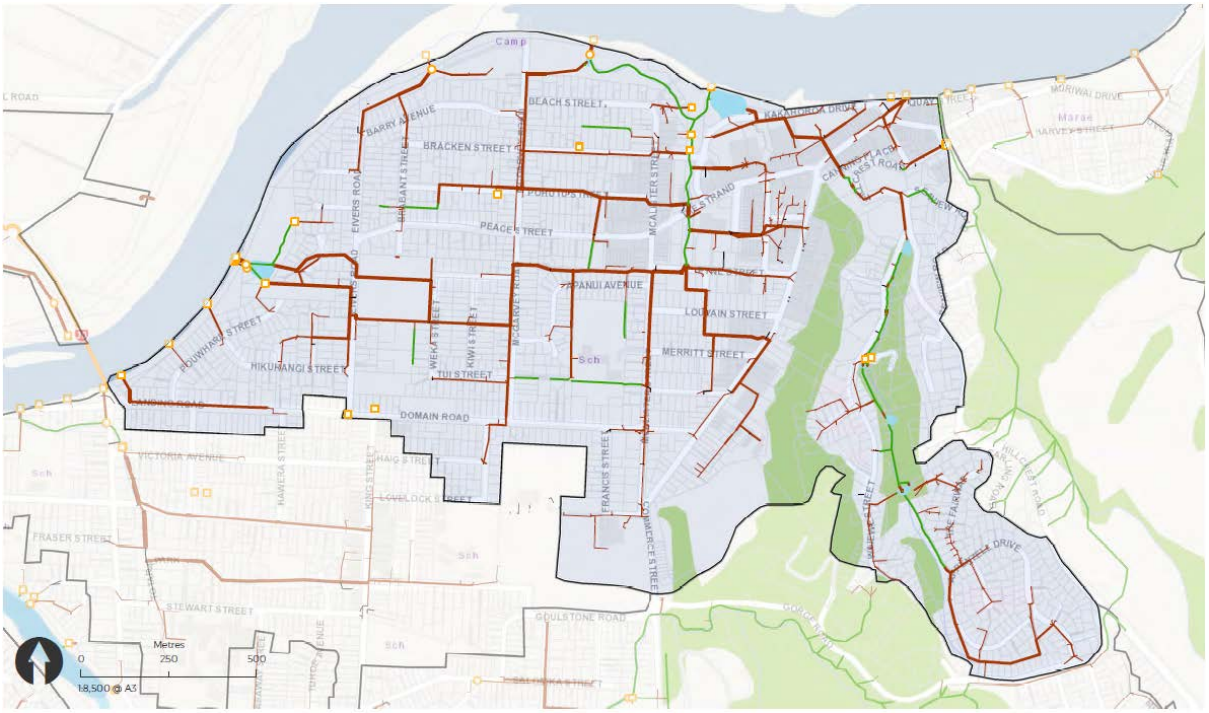

Figure 4: Apanui SC

2.2.1 Apanui

This SC extends from Landing/Domain Road/Rex Morpeth Park north to the Whakatāne River, including the CBD and Commerce Street, and has an area of approximately 271 ha (Figure 4). It also includes an area of steep bush and scrub covered escarpment above and east of Commerce Street, the area of residential development above the escarpment near the eastern margin of Whakatāne township – namely the Waiewe Stream catchment – including Waiewe Street and the intervening land almost to Hillcrest Road, and Appenzell Drive/The Fairway – Mokorua north of Gorge Road. The Waiewe Stream flood risk is mitigated by a series of four existing retention dams in the Waiewe Valley to reduce the peak flow reaching the McAlister Street pump station. The Waiewe Stream, in its lower reaches, is piped under The Strand towards the ponding area near the McAlister Street pump station.

During spring high tides, the Whakatāne River reaches levels similar to the lowest ground levels in the Apanui catchment, which are around 1.5 m above mean sea level. This prevents any gravity drainage of the area during spring high tides. Flap gates on stormwater flood gates remain closed leaving the catchment entirely dependent on a combination of storage and pumping to prevent flooding of the lower lying urban areas.

The main stormwater discharge from the CBD, the inner suburb residential area, and the piped lower Waiewe Stream is to the Apanui Canal, and then via McAlister Street pump station and flood gate to the Whakatāne River. This pump station (which has three pumps) has a maximum capacity of 3.2 cubic meters per second (m^3/s). There are also pump stations at the Rose Garden, Barry Avenue, and Amber Grove which each have capacity to discharge between 0.5 to 0.6 m^3/s.

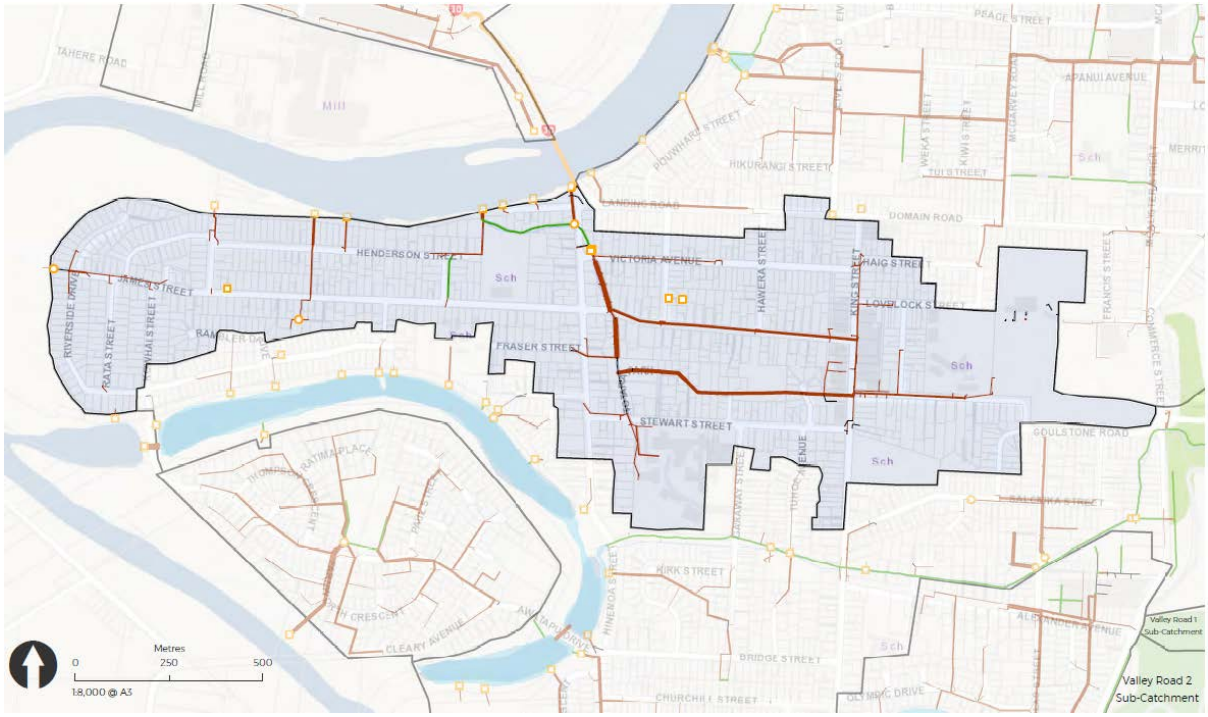

Figure 5: Hinemoa SC

2.2.2 Hinemoa

This catchment has an area of approximately 139 ha and drains the central Whakatāne suburbs and the commercial area of Kōpeōpeō. Properties south of James Street and Stewart Street, alongside Goulstone Road, from the southern boundary of the catchment with the Whakatāne River, Landing Road, and Rex Morpeth Park being the general alignment of the northern boundary. Rex Morpeth Park also forms the urban catchment's eastern fringe. The Hinemoa SC drains into the Awatapu Lagoon or the Whakatāne River (principally via the Hinemoa Drain which collects from the central and eastern areas of the stormwater catchment). The Hinemoa Drain is a highly modified original stream channel. The western end of the catchment is low lying and can be subject to local flooding. The area to the east is higher, but parts are vulnerable to flooding from the Wainui Te Whara Stream should the stopbanks overtop.

The Hinemoa SC is generally reliant on gravity drainage in localised storm events. However, large and more widespread storms which also raise the Whakatāne River can restrict the gravity drainage, and the low parts of the catchment adjacent to Hinemoa Street then rely upon pumped stormwater discharge.

In addition to the flap gated outlets which gravity discharge to either the Whakatāne River, the Wainui Te Whara Stream, or the Awatapu Lagoon, there are three main pump stations located at:

- Hinemoa Street – here a gravity outlet and pump station (capacity 0.37 m^3/s) discharges the Hinemoa drain to the Whakatāne River in the north at the cul-de-sac head of Landing Road.
- Riverside Drive – at the west of the SC, there is a gravity and pumped outlet to the Whakatāne River (capacity 0.36 m^3/s and 0.43 m^3/s).
- James Street – a small pump station adjacent to the street pumps water from a low point into the gravity reticulation system, and the Whakatāne River north of Henderson Street.

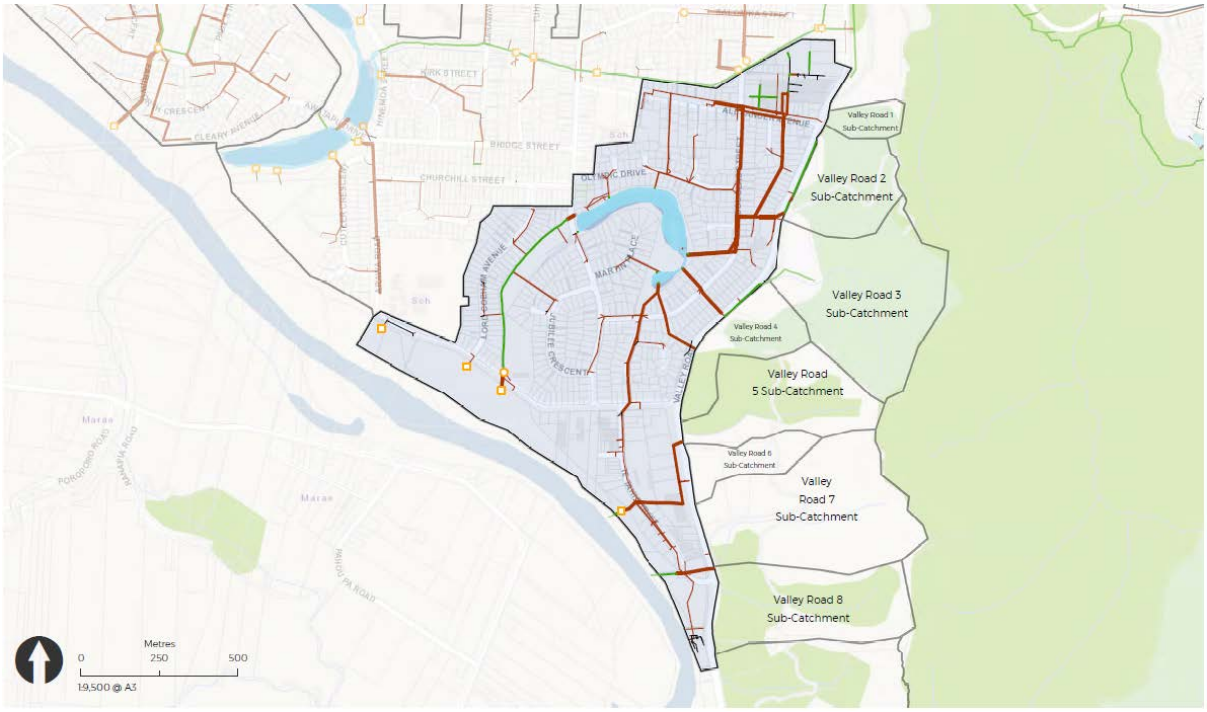

Figure 6: Whakatāne South SC

2.2.3 Whakatāne South

This catchment has an area of approximately 112 ha and is situated to the south of the Wainui Te Whara Stream with Lord Cobham Avenue joining into Arawa Road forming the western boundary, the Whakatāne River forming the southern boundary, and Valley Road the urban margin in the east. The majority of the catchment is urban, but it also includes the industrial land around Te Tahi Street and Alexander Avenue, and 91 ha of steep undeveloped hill land above Valley Road at the eastern margin of the catchment.

The urban sector of the catchment has ground levels between 3 and 6 m above sea level. The catchment is mainly gravity drained, even in large storm events. The main discharge from this catchment is to the Whakatāne River in the south, via Sullivan Lake. The catchment's largest discharge is via a 900 mm gravity pipeline from Sullivan Lake with a flap gate outlet at St Joseph's pump station to the Whakatāne River (two pumps discharging 0.16 m^3/s and 0.42 m^3/s respectively when gravity conveyance is lost). Sullivan Lake provides necessary storage to the system, attenuating peak rainfalls.

At the eastern margin of the Whakatāne South SC is a rural area of mainly steep forest and scrub covered hill escarpment. Seven short, steep ephemeral watercourses discharge westwards from this area down to Valley Road. These watercourses respond quickly to rain and can create significant problems in even relatively minor storms by blocking inlet structures to stormwater culverts under Valley Road at the foot of the escarpment. They often discharge large volumes of sediment and erosion debris. There is little room to control this stormwater and catchment debris. The result is disruption to the arterial road and private property and associated costly incident response. These stormwater volumes also contribute to the overall loading of the Whakatāne South stormwater infrastructure.

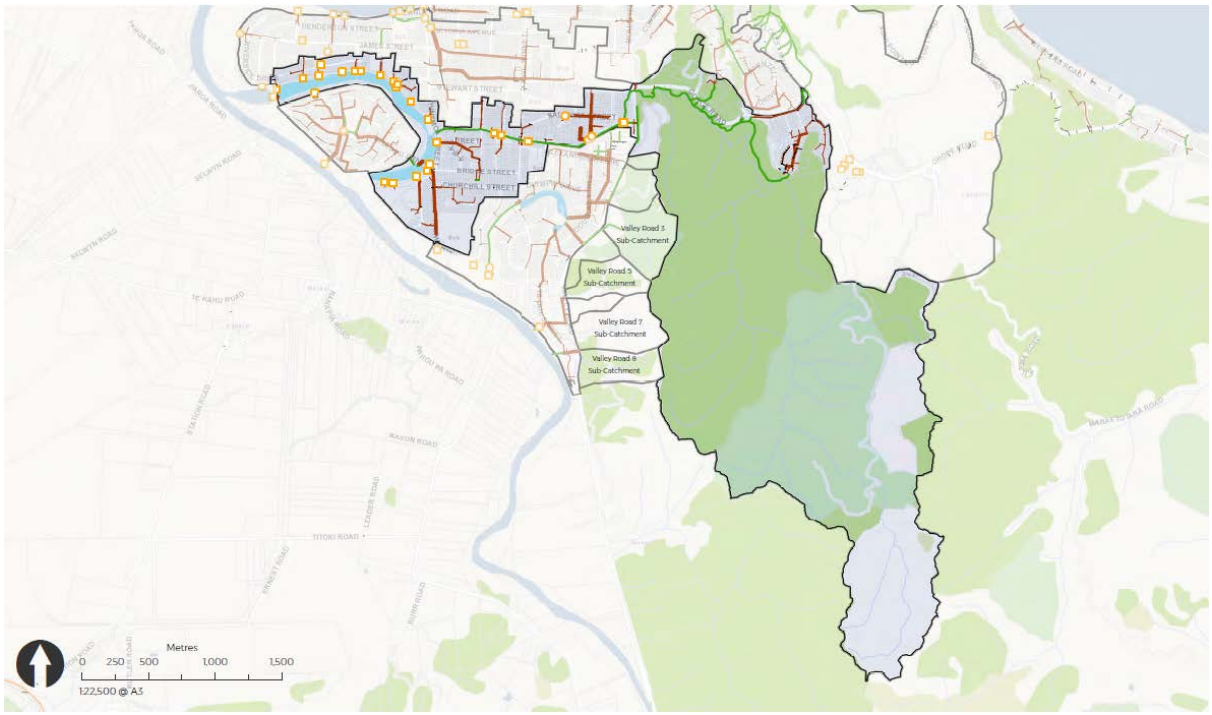

Figure 7: Wainui Te Whara SC

2.2.4 Wainui Te Whara

This catchment encompasses an area (721 ha) of hill suburb south of Gorge Road and south of the Waiewe Stream boundary that drains to the Wainui Te Whara Stream, which then leads into the Awatapu Lagoon with Salonika Street forming the northern boundary of the catchment. The catchment area also encompasses part of the township surrounding the lagoon, with Arawa Road forming the southern boundary.

The urban subdivisions of White Horse Drive and Melville Drive drain to the stream, as do a handful of residential properties above Gorge Road – namely Waiewe Street extension, Sel Cave and Bridger Glade. The stormwater infrastructure in the hill area is simple pipe and drainage reticulation to a stormwater pond adjacent to the stream at the end of White Horse Drive. At the time of subdivision of White Horse Drive, all properties were provided with a stormwater connection to this system. The terrain is steep and gradients in the reticulation are good. The stormwater infrastructure then follows the Wainui Te Whara Stream into Awatapu Lagoon. A large pipe along Arawa Road has the highest discharge from the southern point of the township end of the catchment. The Wainui Te Whara Stream has had its capacity and conveyance of the downstream urban channel increased so that it can pass the design flood without risk of overtopping or stopbank failures.

Figure 8: Awatapu SC

2.2.5 Awatapu

This SC is the residential area of 45 ha contained between the Whakatāne River cut and the old river course now forming the Awatapu Lagoon. The Awatapu Lagoon is not part of the urban Awatapu SC. Rather, it forms the SC boundary as the lagoon is within the Wainui Te Whara SC. The lagoon was formed when the loop in the Whakatāne River was cut to provide flood protection to the town in the 1970s. This brought an area of previously rural land into the town boundary which was developed by the then Housing Corporation into the residential area of Awatapu.

The urban Awatapu SC is bounded by the Whakatāne River to the southwest and the Awatapu Lagoon to the north and east. The stormwater from this urban area drains to the Awatapu pump station in the middle of the urban SC and is then pumped into the Whakatāne River. The two pumps at this pump station have a maximum capacity of 1.35 m^3/s and 0.8 m^3/s respectively and were refurbished in 2006. The Awatapu Lagoon receives catchment in-flows from the Wainui Te Whara Stream and some stormwater discharges from the southwestern margins of the Hinemoa SC and the western margins of the Whakatāne South SC.

Until 2007, the Awatapu Lagoon only had a gravity discharge to the Whakatāne River. In 2007, a new pump station was constructed at the Awatapu Lagoon to mitigate flooding of the suburb of Awatapu (from lagoon overtopping). This was in response to the Whakatāne River and lagoon flooding during the disastrous 2004 storm event and the inundation of 200 homes in Awatapu and houses to the east of the lagoon. The new pump station was designed for the 1% AEP design storm and has a capacity of 4.8 m^3/s. Additional pumping capacity has also been incorporated by holding two mobile “Doda” pumps on standby to accommodate larger storms, cater for the 0.3% AEP storm event, and provide back up in case of power failure.

Figure 9: Wairaka SC

2.2.6 Wairaka

This SC is a small urban area of 58 ha to the east of the Apanui Catchment, and east of the lower Wairere Stream channel towards the Whakatāne Heads, and lies below the steep bush, privet and scrub covered escarpment. The escarpment is prone to serious landslides, as witnessed in recent years above Mātaatua Drive. The urban area is served by soakage in some parts and, where this is not feasible, by a simple pipe reticulation that discharges though eight floodgates directly into the Whakatāne River.

Low lying parts of this urban area were badly flooded during the 2004 record flood in the Whakatāne River, when Whakatāne Harbour waters flowed back down Muriwai Drive. Flood walls were under construction at the time and were completed shortly thereafter and now provide 1% AEP protection from the Whakatāne River floods to platform height (500 mm residential and 300 mm commercial) as per NZS 4404.

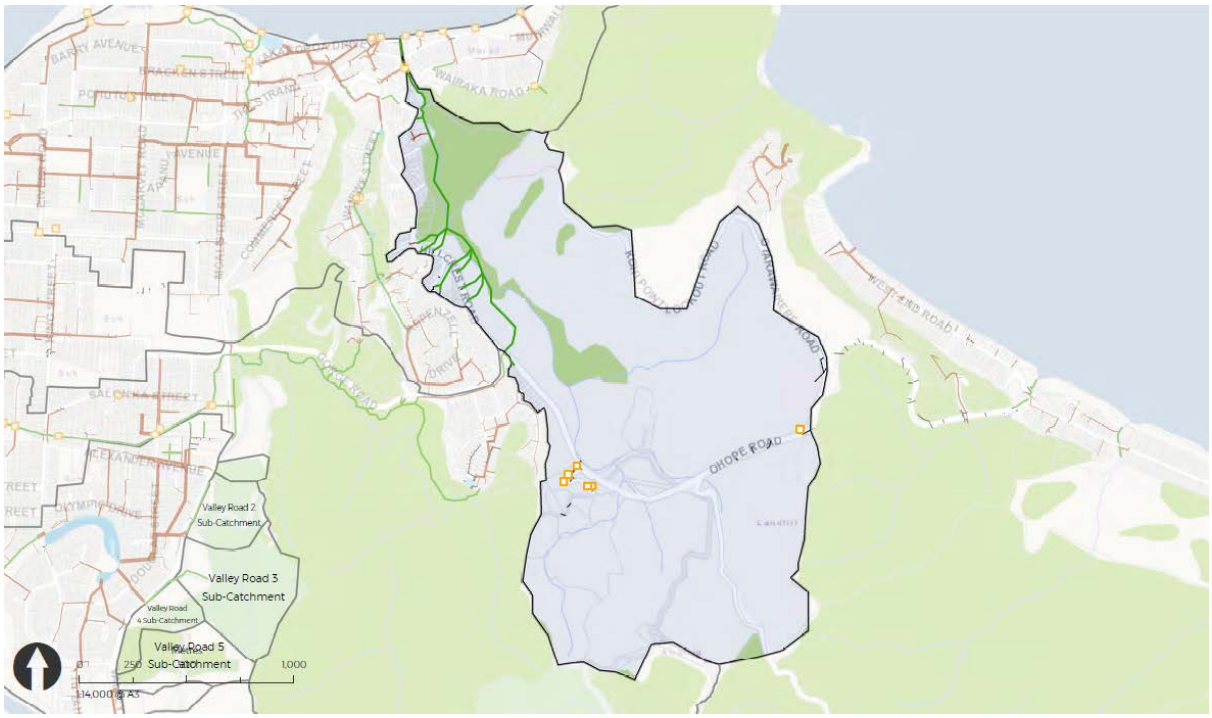

Figure 10: Wairere SC

2.2.7 Wairere

This catchment drains an area of 302 ha of rural hill country (primarily Ngāti Awa Group Holdings Limited's farmland east of Hillcrest and Ōhope Roads) and has its headwaters near the now disestablished Burma Road landfill. A narrow strip of Hillcrest residential land (lying east of the Apanui SC boundary) discharges stormwater to drainage channels and small ephemeral tributaries of the entrenched Wairere Stream. This small urban area stormwater catchment includes much of Seaview Road, Hillcrest Road above (south of) Seaview Road, and Carling Road to the Ōhope Road intersection. The stormwater infrastructure is simple pipe and drainage reticulation with steep gradients to the Wairere Stream.

Where Wairere Stream passes through town near Clifton Terrace and under the eastern end of The Strand and Quay Street to the Whakatāne River, flood walls provide 1% AEP protection from a river flooding event. There have been no reports of flooding from Wairere Stream, even in the June 2010 storm event.

2.2.8 Coastlands / Ōpihi

This SC comprises 124 ha of residential properties and is largely served by ground soakage of stormwater to sandy dune soils. Road runoff cesspits are connected to banks of soak holes located in the road reserve. Overflow from these soak holes is into one of three open space soakage reserves. Runoff from road and driveway surfaces in the southern part of the Coastlands residential area is piped to a stormwater pond where the water is treated by detention and settling to remove suspended solids before being discharged into the Orini Canal at the Keepa Road Bridge. The Orini Canal thereafter discharges to the Whakatāne River. There are proposals to develop a large area of land to the east of Coastlands, at Piripai. This will be to soakage with a possible need for discharge into the Orini Canal. The large pump station conveying flood and runoff water from the Orini Canal into the Whakatāne River is a Rivers and Drainage scheme asset that is the responsibility of BOPRC. The Orini Canal serves a large rural catchment of low-lying land.

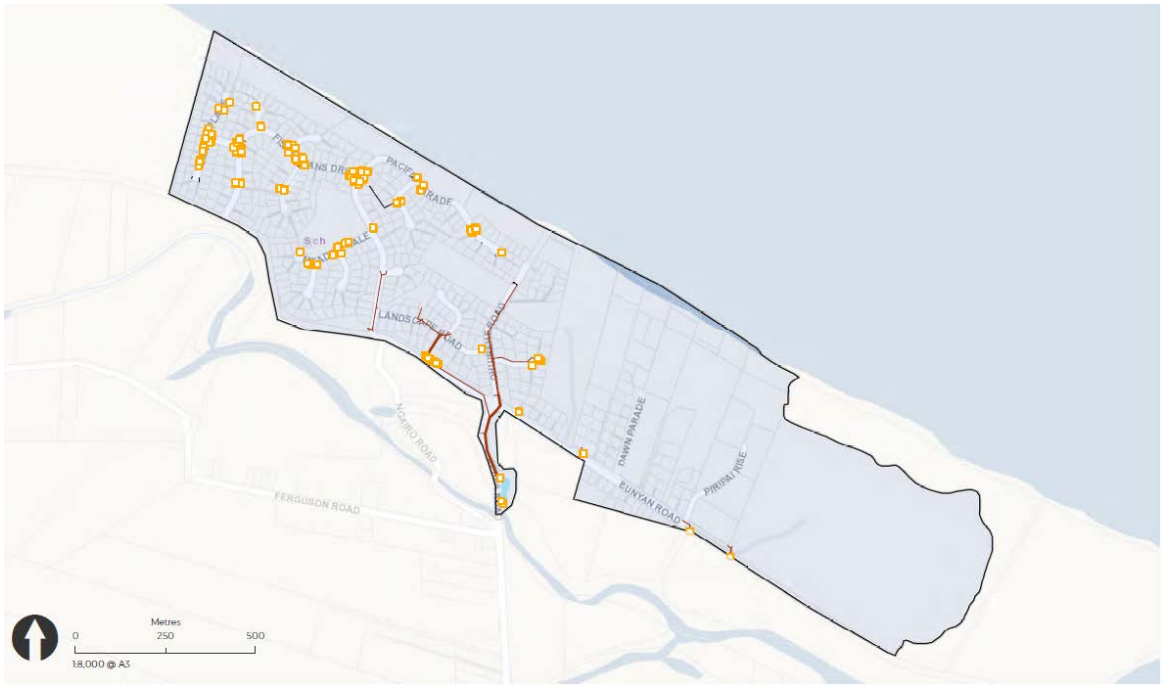

Figure 11: Coastlands Ōpihi SC

2.2.9 Whakatāne West

The Gateway Drive industrial subdivision of 85 ha north of State Highway 30 has a small gravity reticulation system that discharges via a 900 mm diameter floodgate and pump station (when gravity discharge is not possible) into the Kōpeōpeō Canal. This in turn discharges into the Orini Canal, and then into the Whakatāne River.

The Hub and commercial/industrial areas to the south of State Highway 2 have two different discharges. The area east of Phoenix Drive discharges into the Whakatāne River via gravity discharge and when necessary, a pump station immediately upstream of Landing Road Bridge.

The stormwater generated from The Hub west of Phoenix Drive is discharged via gravity flow to the Kōpeōpeō Canal to the north of State Highway 30 through a 550 mm diameter pipe.

On the south of State Highway 30 a stormwater detention pond/basin and pump station has been constructed. In the event that water levels in the Kōpeōpeō Canal are too high to allow gravity discharge, the pump station discharges to this detention basin. This is necessary as when the level in the Kōpeōpeō Canal is high the capacity of the discharge pipe under State Highway 30 is insufficient. In longer duration storm events, stormwater ponds temporarily on low areas of the industrial land. A consent for discharge to the Kōpeōpeō Canal is held for 4.45 m^3/s with the exception of storm events exceeding 1 in 50 years. The Kōpeōpeō Canal is managed by BOPRC and has a limited capacity for receiving additional flows. Flow is pumped to the Whakatāne River at high river levels.

The Council monitors and maintains publicly owned stormwater assets at The Hub. The monitoring and maintenance of stormwater assets on private property is the responsibility of the property owner.

Figure 12: Whakatāne West SC

2.3 Archaeological, cultural, and historical sites

Recorded archaeological sites, identified Ngāti Awa historical sites, and New Zealand Heritage List sites in the Whakatāne urban area are shown in Figure 13.

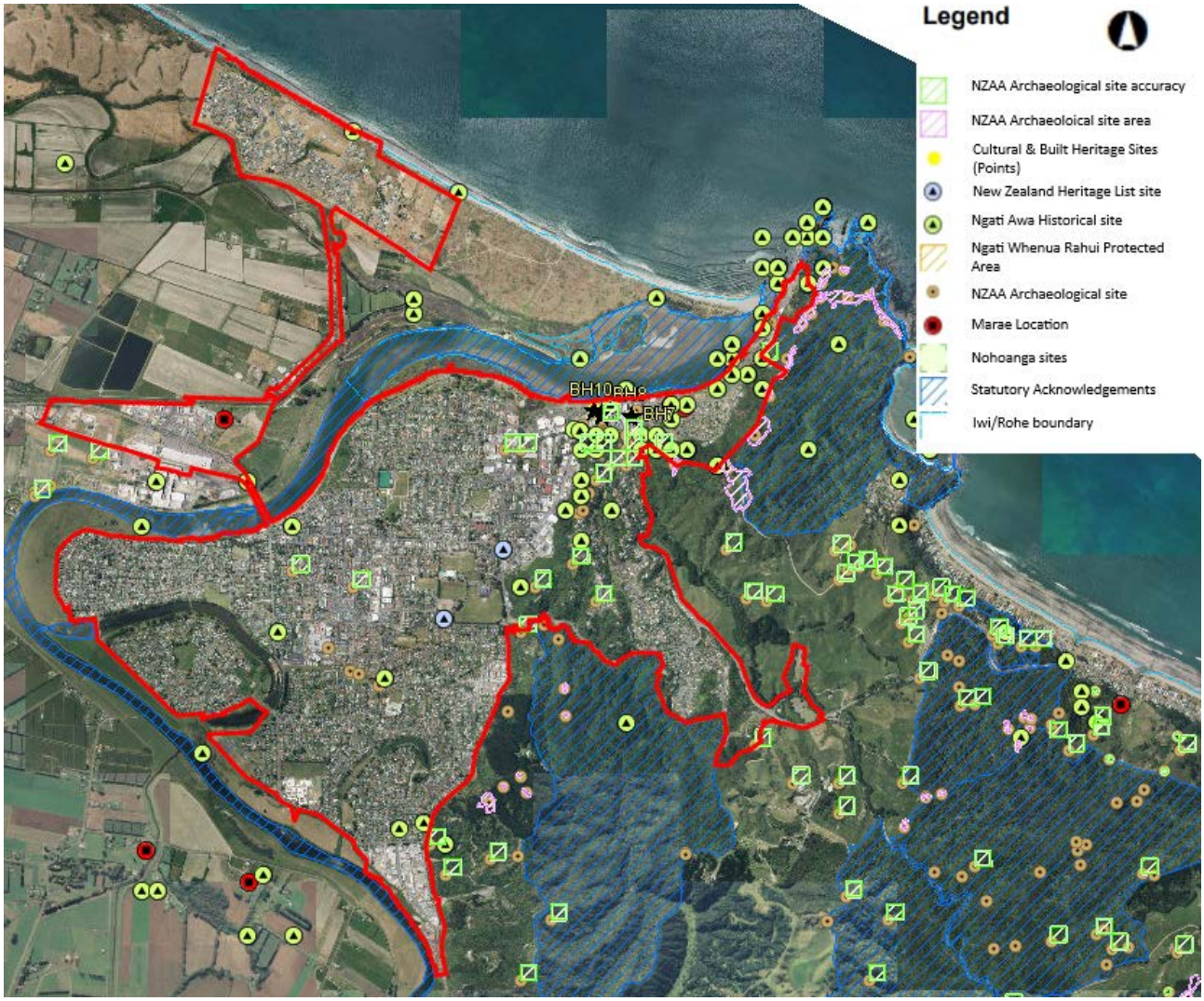

Figure 13: Archaeological sites in the Whakatāne urban area

2.3.1 Existing stormwater infrastructure

The Council's stormwater AMP records a gross replacement value of $61,723,703 for the Whakatāne Scheme.

The total projected cost to operate all of the Council's stormwater networks (eight schemes) from 2021 to 2031 is $67.3 million, as summarised in the Council's LTP 2021-2031. In section 5.3 of the LTP, about $9.98 million has been indicated for expenditure within the Whakatāne stormwater network for significant projects and programmes.

Across the nine SCs of the Whakatāne network, the following infrastructure is installed and used by the Council to manage urban stormwater:

- 18 stormwater pump stations
- 1,101 manholes
- 85 km of pipe reticulation
- 11.5 km of open drains
- four retention dams in the Waiewe Valley
- culverted sections of the Waiewe Stream

- stormwater detention ponds
- stormwater discharge by ground soakage (predominantly in Coastlands area)
- stormwater discharges and associated discharge structures to streams, river and the CMA, as follows:
    - Whakatāne River (CMA) – 11 floodgates from the Apanui SC; and eight from the Wairaka SC
    - Whakatāne River (upstream of Landing Road Bridge) – 18 floodgates from the Hinemoa SC; four from the Whakatāne South SC; one from the Awatapu SC
    - Wainui Te Whara Stream – seven directly from the Hinemoa SC; and four from the Whakatāne South SC
    - Awatapu Lagoon – 12 directly from the Hinemoa SC; six from the Whakatāne South SC; one from the Awatapu SC
    - Wairere Stream – two from the Apanui SC
    - Kōpeōpeō Canal – one from the Whakatāne West SC and one from Shaw Road subdivision stormwater retention ponds.

Table 11 (p. 25) of the stormwater AMP lists all consents for stormwater discharges and associated structures associated with the urban stormwater network. Plans 3 to 11 of Appendix 1 show the location of the existing stormwater infrastructure/structures within each SC.

2.3.2 Other infrastructure

The Council owns and operates water, wastewater, and transport infrastructure in the Whakatāne urban area. Levels of service for these activities are set in respective AMPs, which are available on the Council's website.

2.3.3 Future growth areas

Apart from the Coastlands area, growth within the Whakatāne urban stormwater catchment area will be by way of infill and intensification of land use within the existing urban area. Any intensification of land use will incrementally increase the proportion of impermeable surface within the catchment, increasing the volume and intensity of runoff from rainfall. This trend has been recognised by the Council in the revisions to the ECOP and District Plan, which requires detention of stormwater. An example of this stormwater detention is the Te Whare Wānanga o Awanuiārangi, Whakatāne Campus development on Domain Road/Francis Street, where the site development incorporated underground stormwater storage and rain gardens to contain and discharge stormwater to ground soakage.

The Whakatāne West SC includes land colloquially known as the Shaw Road residential subdivision (Kārearea Drive, Takahē Close, Tara Iti Way, Kōtare Drive, Korimako Place, and Kākāriki Drive). The stormwater assets and associated consents[2] will be vested or transferred to the Council (from PAG Enterprises Limited) for management. Further to this, there is land immediately west from this area to Huna Road that is zoned either Residential or Deferred Residential and set to rezone in future. This land will

[2] BOPRC resource consent (RM16-0376-DC.03)

be subject to a comprehensive structure plan, as required by Rule 12.6 of the District Plan and will require an assessment against Appendix L of the Bay of Plenty Regional Policy Statement ("**RPS**").

In addition to this, there are greenfield areas that have been zoned for development, such as some of the Light Industrial zoned land at 23 Keepa Road as well as land that has been signalled for development through Provincial Growth Fund funding, such as a potential marina at the eastern side of Keepa Road, near the intersection of Keepa Road and State Highway 30, which has stormwater assets on it.

Any of these sites, or any new sites identified, will need to go through the appropriate plan change process, or have appropriate resource consent(s) granted for the activity before any development occurs. This will require the developer to obtain a stormwater consent for the activity, which will need to be consistent with the ECOP and CSC. If or when resource consent is granted for the activity, it will become part of the CSC when the infrastructure is vested to the Council and the amended CMP is verified. Any infill development within the identified SCs likely will not require a new stormwater consent but will instead get a Pollution Prevention Plan ("**PPP**") if required and will be covered already by the CSC.

2.3.4 Flood protection infrastructure

The majority of the Whakatāne urban area, including the CBD, is located on the Whakatāne River floodplain. Whakatāne Township is reliant on flood protection from Whakatāne River floodwaters provided by major stopbanks, floodwalls, riverbank protection works, and other river scheme infrastructure.

As stated previously, this critical infrastructure is the responsibility of BOPRC. The town is protected from a 1% AEP Whakatāne River flood. The river stopbanks are designed to first spill to the rural (western) side away from the town. The true right bank (township side) is 300 mm higher than the true left bank.

During significant flood events, the river height has a significant influence on the Council's ability to remove floodwater from within the stopbanks. Gravity flow is lost as both flood height and tide cycle influence the urban stormwater network's ability to remove stormwater. At this point, the removal of stormwater from within the urban catchment relies on either detention in low lying areas or flood pumps to pump the stormwater over the stopbanks into the Whakatāne River. Figure 14 identifies pump stations within the urban network managed by the Council.

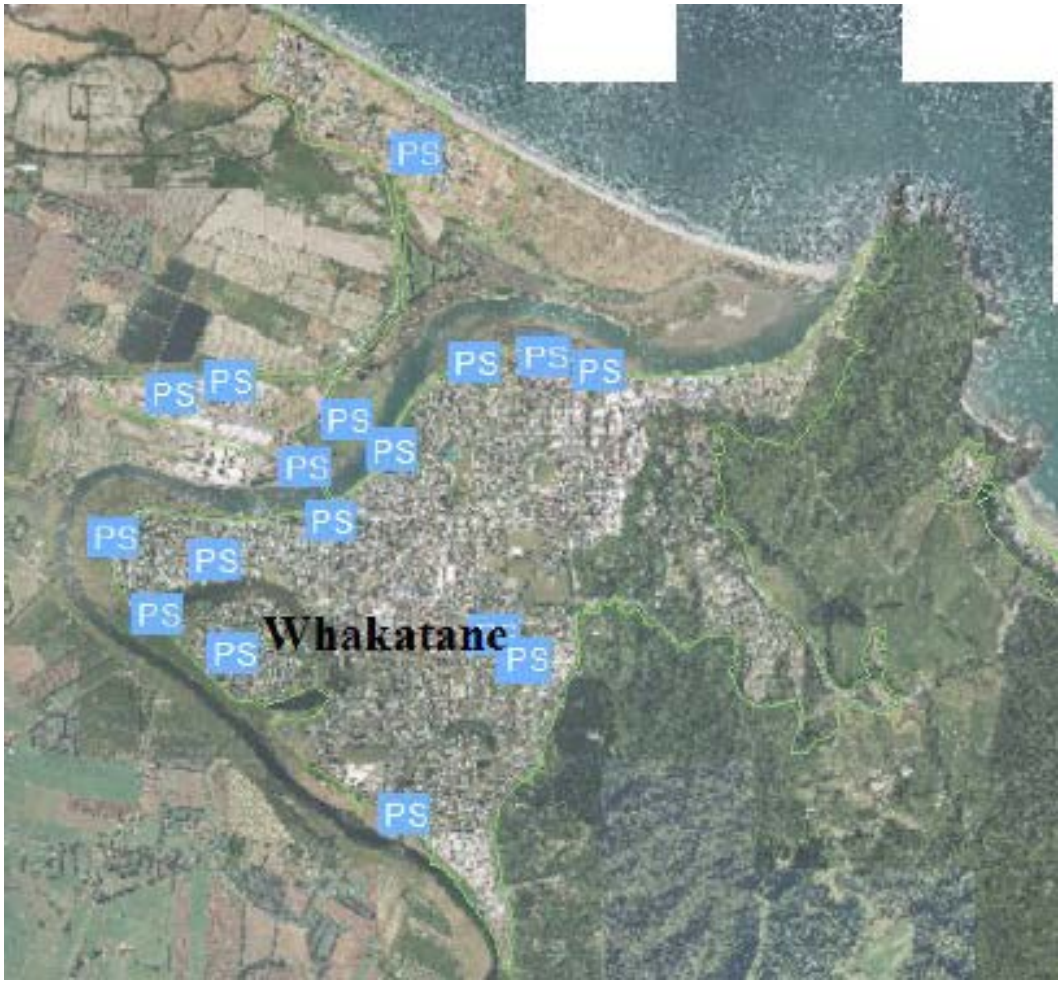

Figure 14: Stormwater pump station locations (denoted by the PS symbol)

2.4 Planning environment

2.4.1 Regional Coastal Environment Plan

As the Whakatāne River downstream of the State Highway 30 bridge is within the CMA, structures and stormwater discharges within this area are subject to the relevant provisions of the Regional Coastal Environment Plan ("**RCEP**"). Figure 15 identifies the relevant features along the length of the river downstream of the bridge.

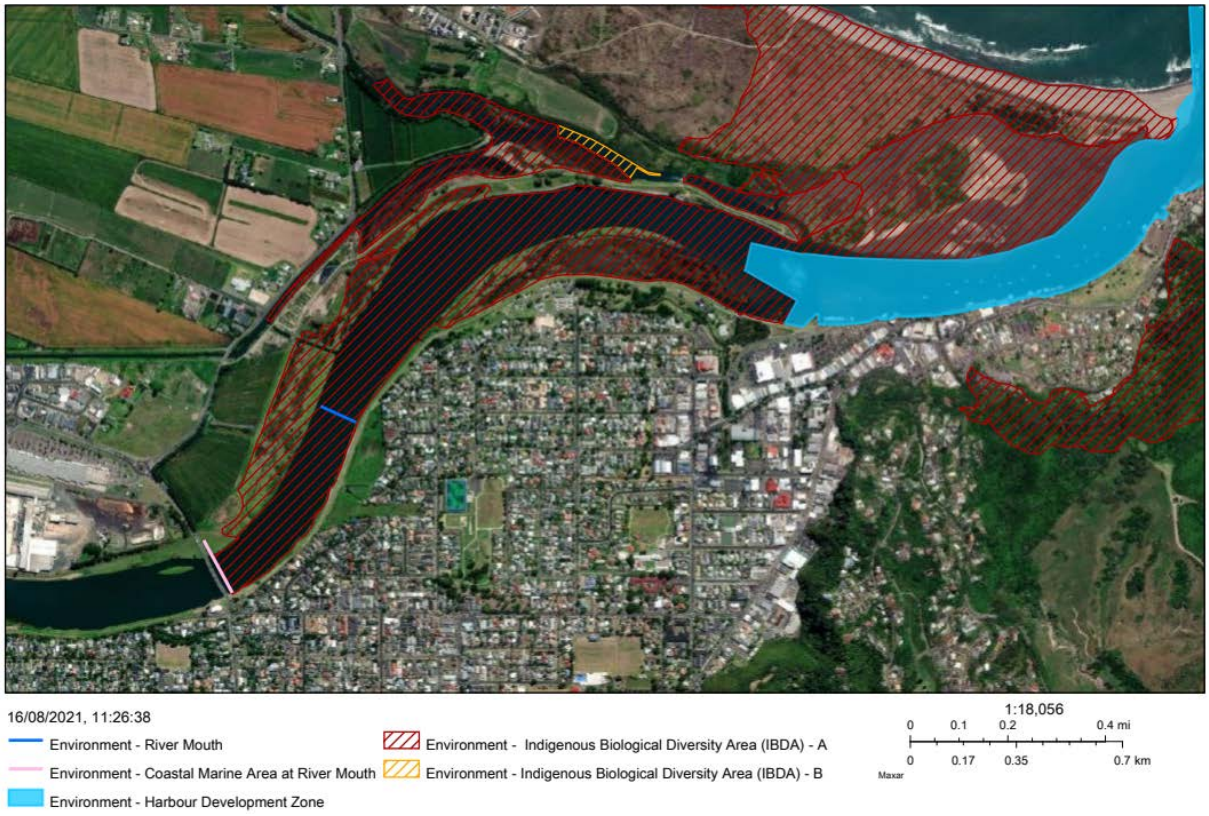

Figure 15: Whakatāne River CMA boundaries

The relevant features for this consent application are:

- CMA boundary
- IBDA[3]-A44 – Whakatāne Estuary and IBDA-A45 – Orini Estuary are identified on map sheet 24b (RCEP)
- Harbour Development Zone area, Whakatāne Harbour Development Zone – map sheets 24c and 47 (RCEP) and further detailed on pages 388-389 of the RCEP.

2.4.2 Coastal Environment

Figure 16 shows the boundary of the Coastal Environment ("**CE**") as defined in the RCEP. The CE extends further inland than the CMA.

[3] *Indigenous Biological Diversity Area A (IBDA A) – areas that meet the criteria contained in Policy 11(a) of the NZCPS, which directs the avoidance of adverse effects on certain biological diversity (biodiversity) values. These sites are identified on the Regional Coastal Environment Plan maps and summary information on why each area is identified is included in Schedule 2, Table 1.*

Figure 16: Coastal environment

2.4.3 Water body values

The Whakatāne Urban Stormwater Network has structures placed in and under, and discharges to, various water bodies. These water bodies include modified streams, old parts of the Whakatāne River, ephemeral streams, intermittent streams, streams, and wetlands.

The following parts of the RNRP relate to water bodies within the urban catchment:

- **Schedule 1:** Aquatic Ecosystem Areas of the RNRP identifies water bodies that are recorded as providing the following:

    - 1A Habitats and migratory pathways of indigenous fish species:

River, Stream, Lake	Species present
Whakatāne River	Kōaro
Wainui Te Whara Stream	Banded Kōkopu, Shortfin Eel [Tuna Hinahina]
Wairere Stream	Common Smelt [pōrohe or paraki], Īnanga, Unidentified Bully, Shortfin Eel [Tuna Hinahina], Redfin Bully, Common Bully [toitoi]

    - 1B Habitats of Threatened indigenous flora and fauna:

Catchment	Species present
Whakatāne River Estuary	Caspian Tern [Tarā Nui], Royal Spoonbill [Kōtuku-ngutupapa], Banded Dotterel [Pohowera], Australasian Bittern [Matuku], Banded Rail [Moho Pererū], [North Island] Fernbird [Kōtātā] and a range of other waterbirds
Whakatāne River main stem	Banded Dotterel [Pohowera] breeding, other waterbirds

    - 1C & 1D record the Whakatāne River as being Whitebait Spawning Site (1C) and Important Habitats of Trout - with Regionally significant trout habitat and fishery values (1D).

Schedule 5: Maintenance Areas of River Schemes and Land Drainage Schemes.

- Figure 17 shows the River Scheme maintenance areas where maintenance works are carried out.

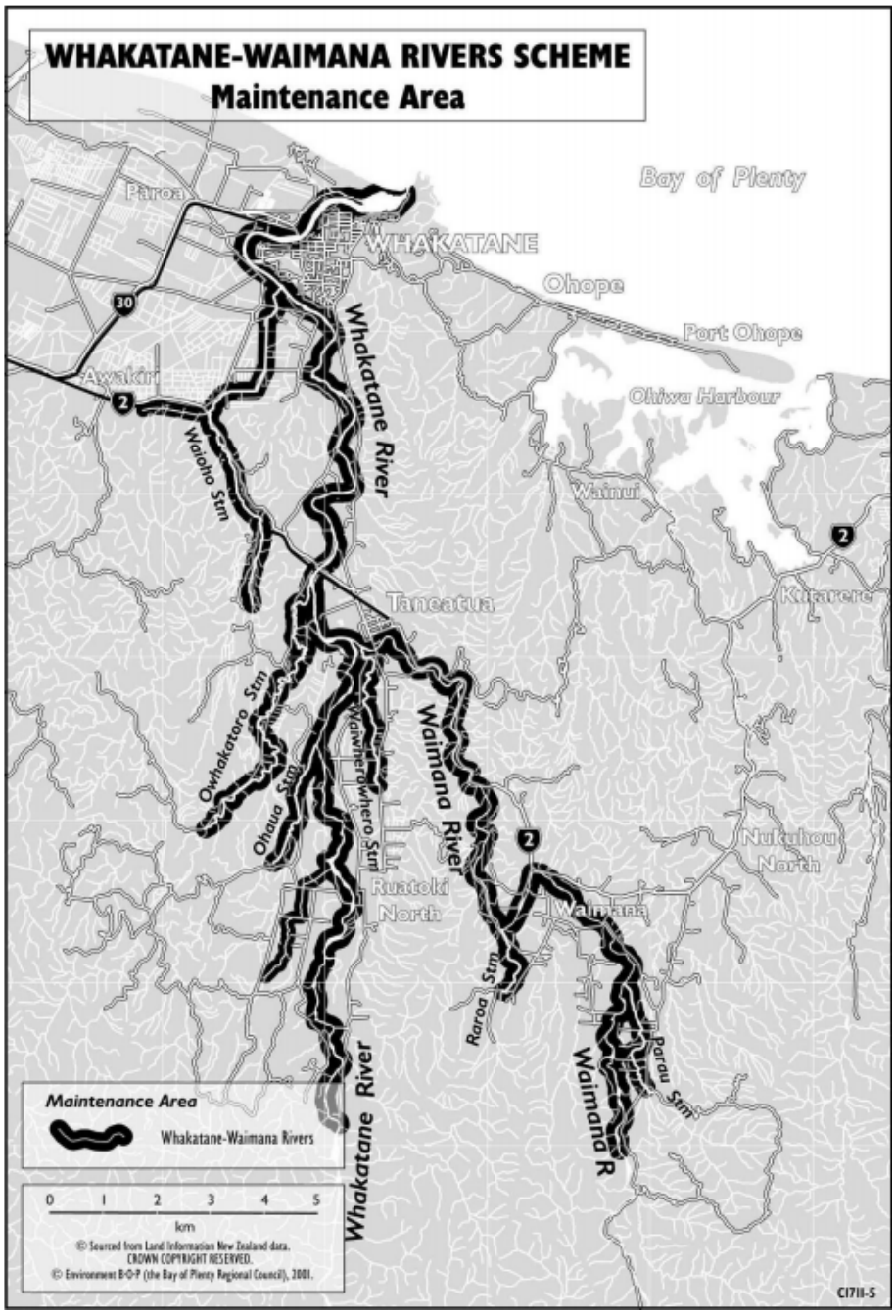

Figure 17: Whakatāne River maintenance area

- **Schedule 9:** Classifies the values of water bodies in relation to predetermined Water Quality Classification Standards. Figure 18 identifies the classification of these water bodies.

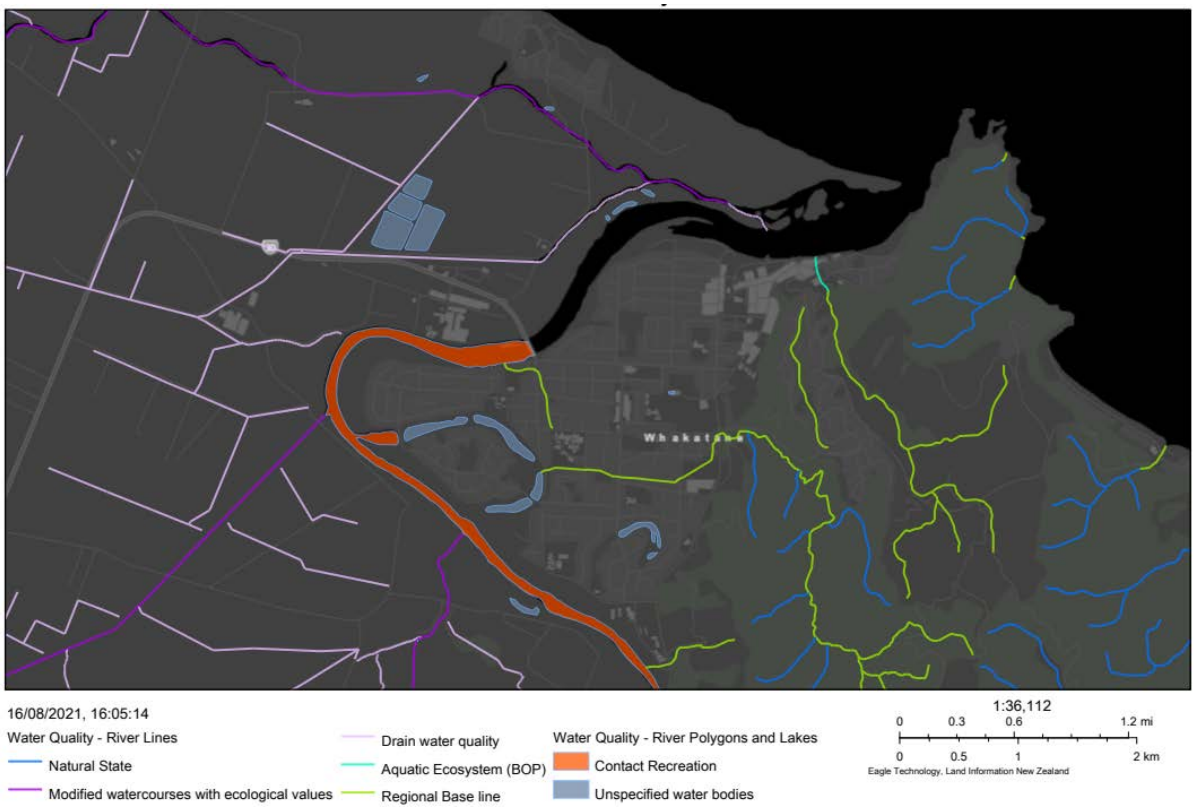

Figure 18: Schedule 9 RNRP water quality

These Water Quality Classification Standards have criteria that are used to assess any proposed discharges. The following explains the intent of the relevant criteria:

- *Natural State (River)*

To ensure that the natural water quality in streams and rivers classified as Natural State (River) is not altered by discharges to the water body. Such streams and rivers are to be protected in their existing high quality state, which is under protected indigenous forest cover. It is recognised that the 'natural state' of rivers in the region will vary according to underlying geology and other natural influences. The E. coli [*Escherichia coli*] *limit is set to allow for bathing suitability in downstream river reaches, and recognises the cumulative inputs from upper catchments.*

- *Contact Recreation*

To ensure that the contact recreation values of rivers and streams classified as Contact Recreation are protected from the adverse effects of discharges. The standards and criteria are based on the CR (contact recreation) water quality class of Schedule 3 and section 70 of the Act, and relevant national standards. The E. coli limit is set to allow for bathing suitability.

- *Modified Watercourses with Ecological Values*

Modified Watercourses with Ecological Values water quality classification is to maintain water quality in specific watercourses (refer to the Water Quality Classification Map) in order to maintain the aquatic habitats and migratory pathways of indigenous fish species that are present in the watercourse. This classification has only been applied to modified watercourses that are part of land drainage systems (referred to as Land Drainage Canals) that provide aquatic habitats or migratory pathways for indigenous fish species. The conditions reflect the need to minimise any further degradation of water quality in modified watercourses used for land drainage, and the somewhat limited opportunity to

improve water quality in these watercourses. The standards and criteria are based on section 70 of the Act, and relevant national standards. This classification links to Schedule 3. Condition (a) means that there shall not be more than a 3 degree Celsius change in water temperature as a result of the discharge while the ambient water temperature remains below 18 degrees Celsius. Once the ambient water temperature exceeds 18 degrees Celsius there shall be no measurable increase in water temperature as a result of the discharge after reasonable mixing.

- *Drain Water Quality*

The Drain Water Quality Classification is to set minimum standards and criteria for any discharge to water in an open drain to prevent further degradation of water quality, particularly in receiving environments. The conditions recognise that water quality in drains is already poor, and the somewhat limited opportunity to improve water quality in these watercourses. Condition (c) is directly from section 70(1) of the Act, which are the minimum conditions for discharge quality. Condition (a) means that there shall not be more than a 3 degree Celsius change in water temperature as a result of the discharge while the ambient water temperature remains below 25 degrees Celsius. Once the ambient water temperature exceeds 25 degrees Celsius there shall be no measurable increase in water temperature as a result of the discharge after reasonable mixing.

- *Aquatic Ecosystem*

To ensure that the aquatic ecological values of rivers and streams classified as Aquatic Ecosystem (Bay of Plenty) are protected from the adverse effects of discharges. Such streams provide habitat for indigenous species or trout. The standards and criteria are based on the AE (aquatic ecosystem) water quality class of Schedule 3 and section 70 of the Act. Condition (e) provides for food gathering, including trout fishing for consumption. The E. coli limit is set to allow for bathing suitability in downstream river reaches and recognise the cumulative inputs from upper catchments.

- *Regional Base line*

The Regional Baseline (Bay of Plenty) water quality classification is to maintain water quality for general water usage in rivers and streams that have not otherwise been classified to a specific standard. The standards and criteria are a combination of standards and criteria from other water quality classes in this regional plan and in Schedule 3 of the Act. Conditions (a), (b), (d) and (e) are general limits used for consistency with other water quality classifications used in this regional plan. Condition (c) allows for the water quality to generally meet the bathing suitability guidelines (single sample limit), although the water body will occasionally fail such guidelines.

From **Figure 17** the identified water bodies have the following classifications:

Table 2: Stream water quality classifications

Stream	Schedule 9 Water Quality Classification
Awatapu Lagoon	Unspecified Water Bodies
Sullivan Lake	Unspecified Water Bodies
Hinemoa Stream (Landing Road)	Regional Base Line
Various Un-named streams	Natural State
Wainui Te Whara Stream	Regional Base Line
Waiewe Stream	Regional Base Line

Stream	Schedule 9 Water Quality Classification
Wairere Stream	Regional Base Line
Whakatāne River	Contact Recreational
Kōpeōpeō Canal	Drain Water Quality
Orini Canal	Modified water course with ecological values

2.4.4 Statutory acknowledgements

Under the RMA, Deeds of Settlement and Settlement Legislation between the Crown and an iwi or claimant group require regional, city and district councils to include Statutory Acknowledgments ("**SAs"**) in relevant district and regional plans and policy statements, and to have regard to them in resource consent notification and decision-making process.

BOPRC provides a compendium document (Ngā Whakaaetanga-ā-Ture ki Te Taiao ā Toi) of the SAs recorded within the region. These records are also depicted via BOPRC's geospatial mapping records. As depicted in Figure 19, the Whakatāne River has a SA on it to Ngāti Awa.

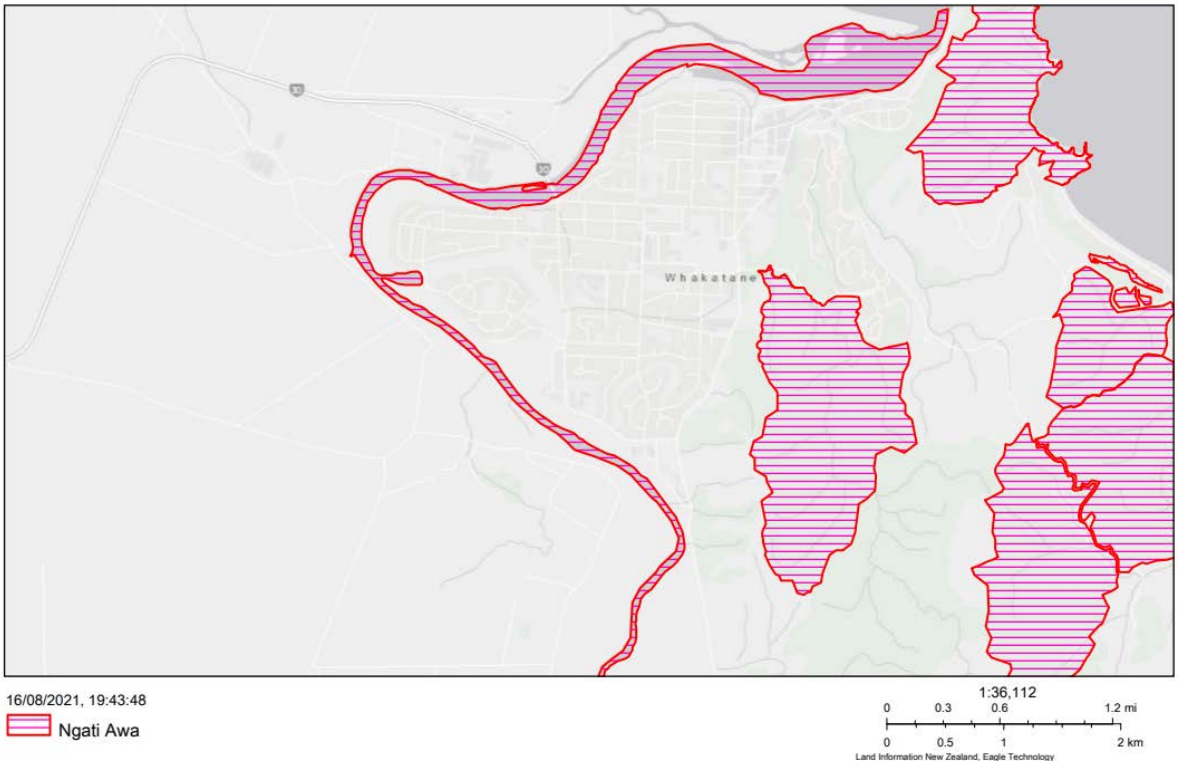

Figure 19: Statutory acknowledgements

2.4.5 National environmental standards

Nine national environmental standards ("**NES**") have been prepared under sections 43 and 44 of the RMA and are in force as regulations. The following are considered relevant to this application:

- National Environmental Standards for Sources of Human Drinking Water 2007 ("**NES-DW**")
- National Environmental Standards for Electricity Transmission Activities 2009 ("**NES-ET**")
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 ("**NES-CS**")

- National Environmental Standards for Telecommunication Facilities 2016 ("**NES-TF**")
- National Environmental Standards for Freshwater 2020 ("**NES-F**")
- National Environmental Standards for Storing Tyres Outdoors 2021 ("**NES-TO**").

2.4.5.1 NES-DW

Regulation 12 of the NES-DW has the potential to be relevant to this application as it applies to consent applications and consented activities that pose risk of significant contamination of a drinking water supply's source water as a result of an accident or event. Regulation 12 only applies to an activity that has the potential to affect a registered drinking-water supply that provides no fewer than 25 people with drinking water for not less than 60 days each calendar year. Figure 20 shows the only known abstraction point for an applicable registered drinking-water[4] supply[5] located near stormwater discharge points. The abstraction point[6] is located near the Whakatāne Refuse Transfer and Recycling Centre on Te Tahi Street. The water take is authorised under resource consent number 20198.

Various bore sites exist in and around the catchment area, but none achieve the criteria for consideration by Regulation 12 of the NES-DW.

Figure 20: Whakatāne water supply abstraction point

*[4] The NES-DW defines **drinking water** to mean—*
(a) means water intended to be used for human consumption; and
(b) includes water intended to be used for food preparation, utensil washing, and oral or other personal hygiene
*[5] The NES-DW defines **registered drinking-water supply** to mean a drinking water supply that is listed in the register of drinking water supplies kept and maintained by Taumata Arowai under section 55 of the Water Services Act 2021*
*[6] The NES-DW defines **abstraction point** to mean a place at which water in the environment is abstracted for use in a registered drinking-water supply (for example, the place at which water is abstracted from a river, stream, or lake or from a groundwater source)*

Regulation 12 requires the imposition of a consent condition requiring:

the consent holder to notify, as soon as reasonably practicable, the registered drinking-water supply operators concerned and the consent authority, if an event of the type described in subclause (1) occurs that may have a significant adverse effect on the quality of the water at the abstraction point.

The events under Sub Clause 1 are:

(a) *(*activity) *itself lead to an event occurring (for example, the spillage of chemicals) that may have a significant adverse effect on the quality of the water at any abstraction point; or*

(b) *as a consequence of an event (for example, an unusually heavy rainfall) have a significant adverse effect on the quality of the water at any abstraction point.*

2.4.5.2 NES-ET

While not considered applicable to this application, Regulations 28 and 33 of the NES-ET must be acknowledged. Regulation 28 relates to discharges to water associated with activities covered by the NES-ET. Works authorised under the NES-ET within the CSC's catchment could result in associated contaminants entering stormwater within the stormwater catchment. The Council will be responsible for ensuring any stormwater discharges from the catchments continue to maintain compliance with relevant environmental limits. Further, Regulation 33 relates to the permitted activity standards for earthworks relating to an existing transmission line. Any works undertaken will need to comply with the permitted activity clauses in the NES-ET and any earthworks standards prescribed by the TA.

2.4.5.3 NES-CS

Regulation 5(2-6) of the NES-CS identifies activities that are covered by the NES-CS. The CSC is not considered to be an activity from that list; however, as part of ongoing maintenance and upgrades, disturbance of contaminated land is likely and will need to comply with the permitted activity rules. Any disturbances will be managed under the CMP. There are various "pieces of land" that are considered to be land covered by Regulation 5(7-8), with known or identified Hazardous Activities and Industries List ("**HAIL**") sites shown in Figure 22. No new activity or change of land use is being proposed, therefore no further consideration of the NES-CS is required.

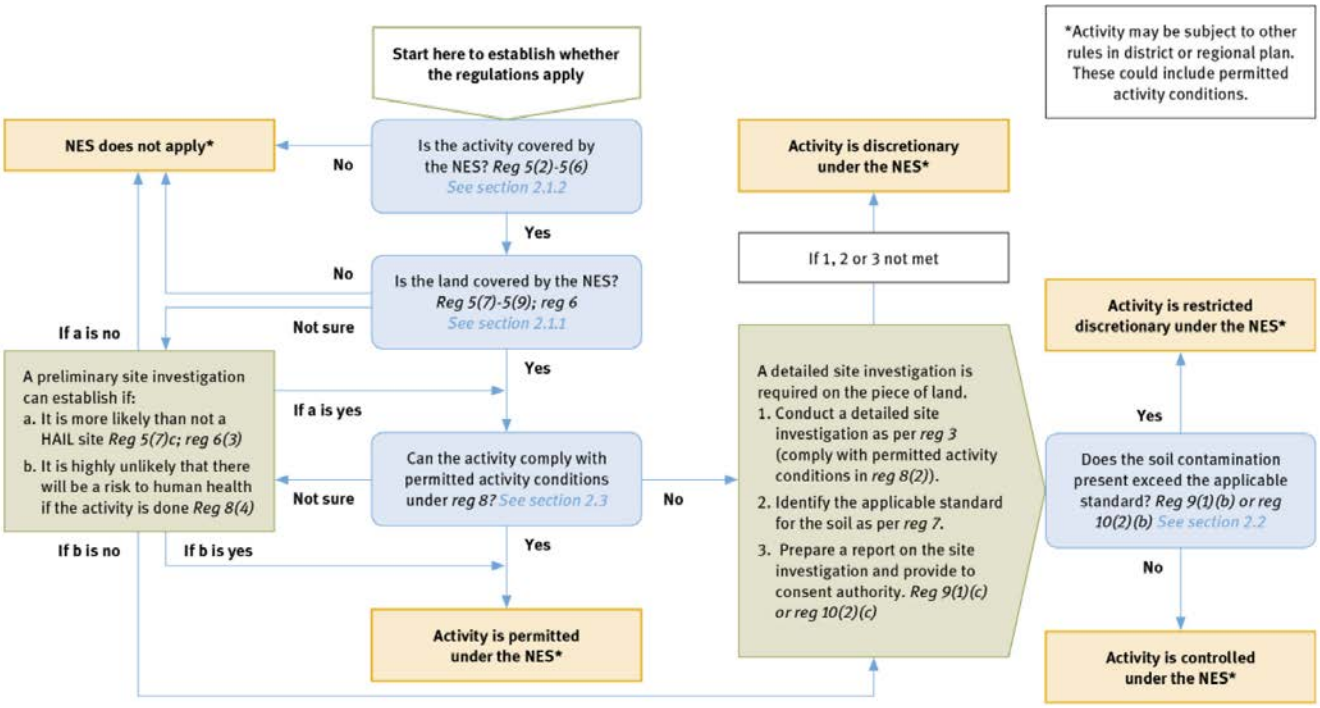

Figure 21: Excerpt from MfE's guide to the NES-CS

As part of the CSC, maintenance works are sought to be authorised. The Council has stormwater assets on various identified HAIL sites and, in time, these will require maintenance or upgrades/replacement. Should this occur, the permitted activity requirements under the NES-CS are required to be followed (see Regulation 8 of the NES-CS). Any proposed works that exceed these thresholds will require consent from the relevant authority.

There are over 100 registered HAIL sites within the catchment area with varying sources of contamination, for example mill waste, pesticide use, historic landfill sites (such as at the now skatepark and Burma Road landfill), etc. Typically, the Council holds extensive background information about hazardous sites that it owns or manages.

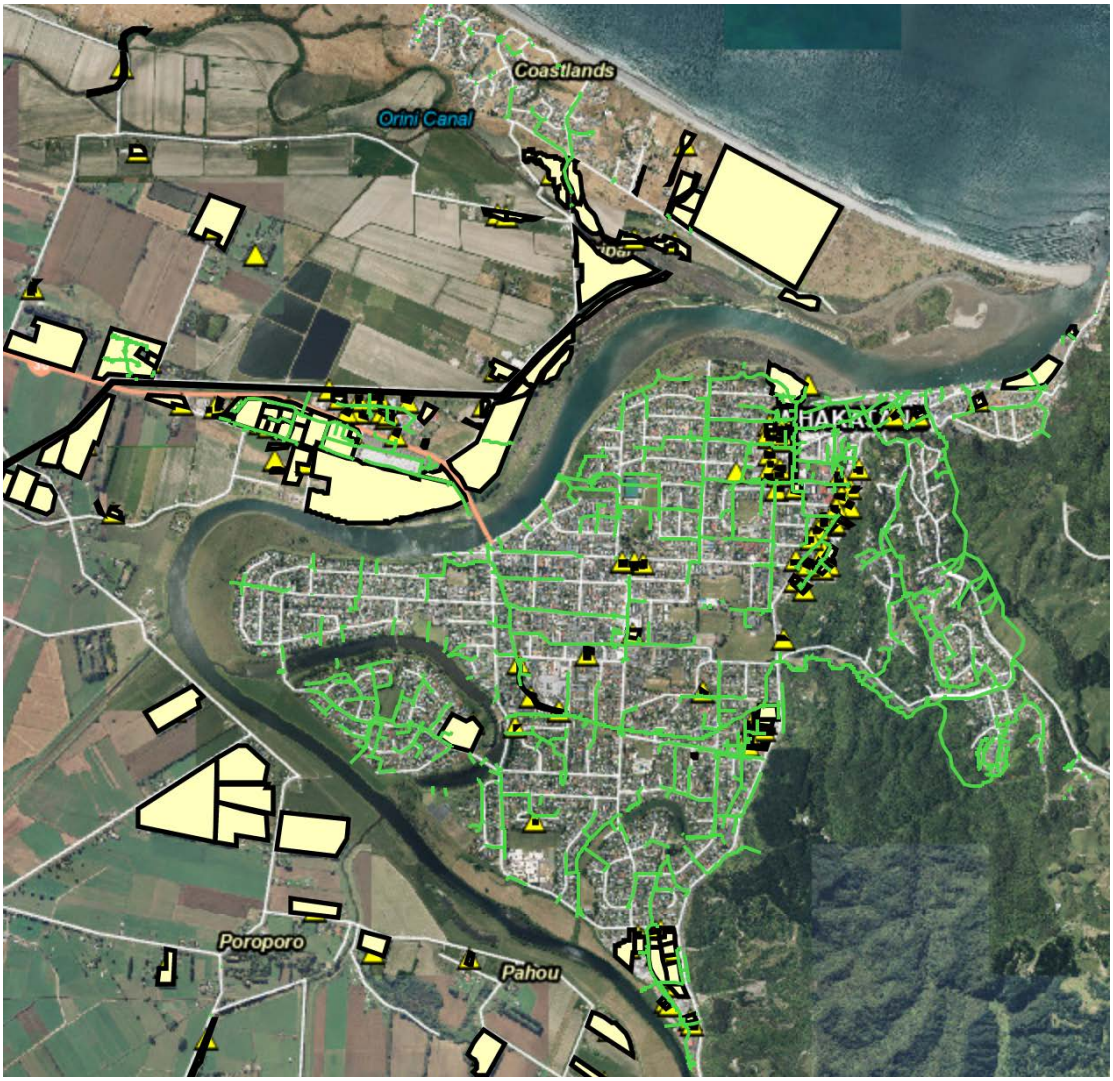

Figure 22: Image of the Whakatāne Township with HAIL sites shown as yellow polygons or triangles, and stormwater assets shown as green lines

In addition to the NES-CS requirements, to satisfy the RNRP requirements, the Council proposes the following methodology (extracted from the CMP) where works are to be undertaken on known HAIL sites:

1. Where maintenance is required on a known or suspected HAIL site, a Preliminary Site Investigation (PSI)[7] (or Detailed Site Investigation (DSI)[8] where needed) will be undertaken.

[7] The NES-CS defines **preliminary site investigation** (PSI) to mean an investigation that—
- (a) is done by a suitably qualified and experienced practitioner; and
- (b) is reported on in accordance with the current edition of *Contaminated Land Management Guidelines No. 1–Reporting on Contaminated Sites in New Zealand*, Wellington, Ministry for the Environment; and
- (c) results in a report that is certified by the practitioner.

[8] The NES-CS defines a **detailed site investigation** to mean an investigation that—
- (a) is done by a suitably qualified and experienced practitioner; and
- *(b) is done in accordance with the current edition of Contaminated Land Management Guidelines No. 5–Site Investigation and Analysis of Soils, Wellington, Ministry for the Environment; and*
- *(c) is reported on in accordance with the current edition of Contaminated Land Management Guidelines No. 1–Reporting on Contaminated Sites in New Zealand, Wellington, Ministry for the Environment; and*
- *(d) results in a report that is certified by the practitioner*

2. The Council will provide BOPRC with the PSI (or DSI, if applicable), disturbance methodology and Erosion and Sediment Control Plan (ESCP) for certification prior to any works commencing.
3. Where the PSI (or DSI) indicates that the chance of contamination is low and BOPRC accepts the PSI (or DSI), then works will proceed in accordance with the BOPRC's Erosion and Sediment Control Guidelines or any other specific maintenance conditions.

OR

Where resource consent is required under the NES-CS, the consent holder shall seek the relevant consent from the applicable consent authority.

4. All contaminated soils either remain in situ or are disposed of at an appropriately authorised facility.
5. Where soils are removed and remediation occurs, a site validation report is supplied to BOPRC, and to the consenting authority if resource consent is required under the NES-CS.

Scheduled maintenance can be handled as a project annually and all the PSI/ DSIs and certification for the entire year can be submitted for pre-approval.

2.4.5.4 NES-TF

While considered not applicable to this application, the regulations and applicable clauses in relation to earthworks (and any associated discharge to water) associated with activities covered by the NES-TF and District Plan are noted. Most notably, this includes Regulation 53 and 54 of the NES-TF. Works to telecommunications facilities within the CSC's catchment could result in associated discharges entering stormwater within the network. The Council will be responsible for ensuring any stormwater discharges from the catchments continue to maintain compliance with relevant environmental limits.

2.4.5.5 NES-PF

While not considered applicable to this application, it is noted that plantation forestry exists within some properties that contribute to the urban catchments. This land is subject to the applicable requirements of the NES-PF and any consent authority requirements in relation to plantation forestry activities.

Works associated with plantation forestry activities within the CSC's catchment may result in discharges to the stormwater network and/or water bodies that stormwater discharges to.

2.4.5.6 NES-F

The NES-F regulates and sets requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. Anyone carrying out these activities will need to comply with the standards.

The NES-F is concerned with three activities associated with the stormwater network: discharges (including to natural wetlands), existing structures, and disturbance (including to natural wetlands) associated with maintenance/repair or replacement of existing structures.

When considering the existing structures on the bed of any river/stream associated with the stormwater network, Regulation 60 of Part 3/Subpart 3 the NES-F states the following:

60 *When this subpart does not apply*

This subpart does not apply to any of the following structures in, on, over, or under the bed[9] of any river or connected area[10]:

> *(a) an existing structure[11], meaning a structure that was in the river or connected area at the close of 2 September 2020, and including any later alterations or extensions of that structure:*
>
> *(b) a customary weir, meaning a weir[12] that is used for the purpose of practising tikanga Māori, including customary fishing practices.*

Regulation 60 does not include the term "replacement" as used in further regulations. Therefore, it is assumed that while any alteration or extension is provided for, any future replacement would need to comply with Subpart 3 of the NES-F or obtain the relevant consents.

The stormwater network complies with the specified infrastructure definition as the network meets the definition of Regionally Significant Infrastructure[13] contained within the RPS. The Council is also responsible for other infrastructure considered as specified infrastructure, as defined by the NES-F. This includes the potable water supply, wastewater or sewerage networks, and the road network.

Maintenance and operation of both specified and other infrastructure is a permitted activity, in accordance with Regulation 46. This includes matters such as vegetation clearance and earthworks within 10 m of a natural wetland, and the taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland, provided it complies with the conditions specified in Regulation 46(4). If

---

[9] *The RMA defines **bed** to mean,—*

(a) in relation to any river—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks:

(ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and

(b) in relation to any lake, except a lake controlled by artificial means,—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin:

(ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and

(c) in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and

(d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea

[10] *The NES-F defines **river or connected area** to mean—*

(a) a river [as defined by the RMA]; or

(b) any part of the coastal marine area that is upstream from the mouth of a river

[11] *The RMA defines **structure** to mean any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft*

[12] *The NES-F defines **weir** to mean an open-topped structure across the full width of any river or connected area that—*

(a) alters the water level and the flow characteristics of the water; and

(b) allows water to flow passively through or over the top

[13] Regionally Significant Infrastructure: *Is infrastructure of regional and/or national significance and includes:…..* (some text deleted) • *Local authority wastewater and stormwater networks, systems and wastewater treatment plants*.

an activity cannot comply with the conditions set out in Regulation 46, then the proposal is a restricted discretionary activity, with assessment criteria specified in Regulation 56.

Discharges and land disturbances in proximity to natural wetlands are addressed in Part 3, subpart 1 Regulation 46 under the term 'other infrastructure':

- Maintenance activities (land and vegetation disturbance) are addressed under Regulation 46(1) and (2)
- Any discharge to a natural wetland is conditional upon compliance with Regulation 46(4) and specifically 'General Matters' listed under Regulation 55.

The Hamill Report identifies the Whakatāne River as containing natural wetlands (see section) and implies any discharge from the stormwater network to those wetlands must achieve compliance with Regulation 55. If compliance is unable to be achieved then discharges would be considered under Regulation 47(3), in compliance with Regulation 47(5).

Given any discharge/s to the wetlands within the Whakatāne River are commonly associated with flood events and the duration of any individual discharge or the ongoing activity of discharging could not be limited as required by Regulation 47(5), consent is required under Regulation 54 as a non-complying activity for the discharge of stormwater to identified natural wetlands.

2.4.5.7 NES-TO

The NES-TO is not applicable to this application insofar as that the known instances of outdoor storage of tyres (i.e. vehicle repair yards) appear to comply with the permitted allowances of the NES-TO. Notably, the purpose of the NES-TO as outlined in Regulation 3 is:

The purpose of these regulations is to deal with the effects of storing tyres outdoors that relate to the functions of regional councils under section 30 of the Act, particularly—

> *(1) the control of the use of land for the purpose of—*
> *(a) the maintenance and enhancement of the quality of water in water bodies and coastal water; and*
> *(b) the avoidance or mitigation of natural hazards; and*
> *(2) the control of discharges of contaminants into land, air, or water.*

Regulation 12 contains general permitted activity standards, which include setbacks of tyre storage from water bodies, abstraction points, CMA, and from aquifers.

2.4.6 Bay of Plenty Regional Council Flood Protection and Drainage Bylaws 2020

The Whakatāne River, including the Wairere Stream, are included within the BOPRC's Flood Protection and Drainage Bylaws 2020 ("**FPDB**").

The FPDB apply to all flood protection and drainage assets managed by, or under the control of, BOPRC, whether they are in a rural or urban environment.

The FPDB have been developed to protect and control drains and assets, including pump stations, defences against water, river edge protection works and floodways managed by, or under the control of, BOPRC. As previously identified in Schedule 5 of the RNRP, the Whakatāne River has stopbanks protecting the town.

2.5 Cultural environment

The Whakatāne River and its banks have been occupied by the ancestors of Ngāti Awa since before the arrival of Mātaatua. Cultivations and house sites were well established in this region. The Whakatāne River is a life and spiritual source for its people.

Historically, the Whakatāne River held value for Ngāti Awa as a source of food including eels, kākahi, oysters, fish, and whitebait. It was also used by Ngāti Awa to transport goods to and from the inland settlements of the iwi.

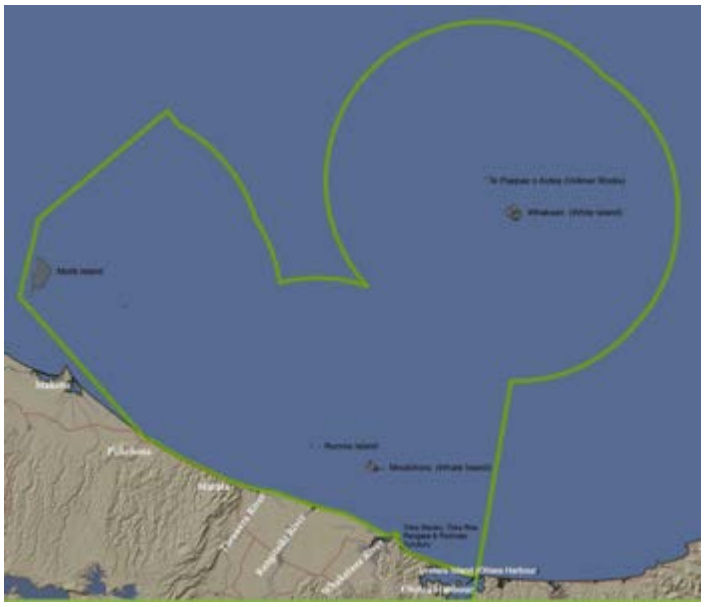

Figure 23: Traditional coastal rohe of Ngāti Awa[14]

The traditional coastal rohe of Ngāti Awa includes:

- the coastal environment and coastal marine area from Little Waihi Estuary near Maketu to, and including, Ōhiwa Harbour
- an area extending from 200 miles offshore, encompassing numerous islands including Motiti, Moutohorā, and Whakaari.

Ngāti Awa retain a significant presence in the common marine and coastal area. This includes:

- Te Paepae o Aotea (Volkner Rocks), vested in Ngāti Awa as trustee
- the Koohi Point rocks at the Whakatāne River mouth, vested in Ngāti Awa as Māori customary land
- the enduring relationship of Ngāti Awa to Moutohorā and Uretara, which is statutorily recognised in the Ngāti Awa Claims Settlement Act 2005

[14] Source: Ngāti Awa Application for Customary Marine Title 2017.

- a gazetted Rohe Moana over which Ngāti Awa exercises its mana and kaitiakitanga in relation to customary fisheries
- the Rurima Islands, which are a Māori reservation set aside for Ngāti Awa.

Te Runanga o Ngāti Awa ("**TRONA**") has made an application under the Marine and Coastal Area (Takutai Moana) Act 2011 ("**MACA Act**") for customary marine title. This requires anyone applying for resource consent in the common marine and coastal area to notify TRONA as the applicant and to seek its views on the application.

The management of water is a significant issue to Ngāti Awa from social, cultural, and economic perspectives. As tangata whenua and kaitiaki, Ngāti Awa has a responsibility to protect the mauri of ancestral waters, ensuring its life supporting qualities are sustained for future generations. Their ancestral connections to land and water resources are matters that must be recognised and provided for under s6(e) of the RMA.

All rivers, streams, aquifers, puna, and fumarole are culturally significant to Ngāti Awa. Three rivers in particular are subject to SAs in the Ngāti Awa Settlement. These are the Whakatāne, Rangitāiki and Tarawera rivers.

Te Mana o te Wai is a contemporary term, introduced in the National Policy Statement for Freshwater Management 2020, which describes the integrated and holistic well-being of a freshwater body:

"Upholding Te Mana o te Wai acknowledges and protects the mauri of the water. This requires that in using water you must also provide for Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the water body) and Te Hauora o te Tangata (the health of the people)."

Freshwater management is no longer just about the allocation and use of water. Te Mana o te Wai is all encompassing and ensures that the first right to the water goes to the water. It is about restoring balance and ensuring reciprocity. It means considering the health of the source water body in the first instance, and all that it sustains, before considering how much is available for allocation and use. This also means looking at water quantity and quality as a whole (i.e. one affects the other and vice versa).

Te Mana o te Wai requires recognition of the values associated with freshwater, which includes, but is not limited to cultural, ecological, social, landscape, recreational and economic values. All of these values are applicable to Ngāti Awa.

2.6 Topography

The Whakatāne urban area is relatively flat with the only significant elevation being along the ridgeline running in a North-South orientation to the east of the township. Figure 24 shows the land slope within the urban catchments. The bulk of the urban catchment on the eastern side of the river is low and flat.

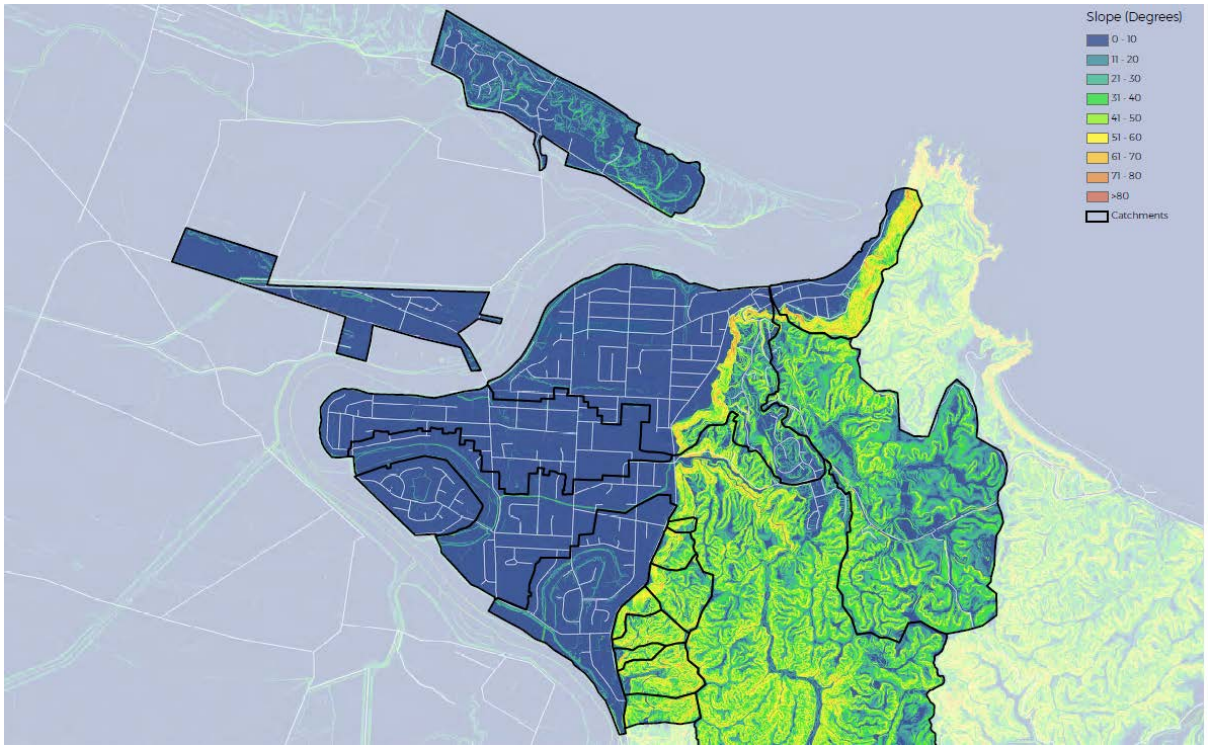

Figure 24: Land slope within urban catchments

2.7 Geology

There are four distinct landscapes within the Whakatāne urban catchment with differing geology and soils:

- steep escarpment and hills to the east
- flat alluvial flood plains on either side of the Whakatāne River
- sand dunes on the coastline (Coastlands)
- older inland dunes along and south of Landing Road.

The flat to gently undulating floodplain comprises pumiceous and greywacke alluvium deposited by the Whakatāne and Rangitāiki Rivers. There is a thin mantling of Tarawera Ash over much of the landscape. In the case of dunes, thin layers of Kaharoa Ash and Taupō Pumice can also be found. Remnant coastally derived wind-blown dunes are also covered by alluvium in places (Landing – Domain Road areas).

Fans are built on colluvium generally deposited by stream tributaries discharging from the escarpment hills at the eastern margin of the floodplain. The fault blocks of the coastal hills are composed of Jurassic age greywacke. The greywacke is covered in up to 12-30 m of Pleistocene age sediments of siltstones, sandstones and greywacke gravels and by up to 15 m of volcanic ash and lapilli.

The urban soil map (Appendix 1 - Plan 12, based on WA Pullar of Soil Bureau in 1972) provides an expression of the underlying geology, topography, drainage, and other soil forming factors including climate.

Appendix 1 provides a more detailed description of the soils within the urban catchment and the infiltration rate of those soils.

2.8 Land use

Figure 25 below shows the District Plan zones within the urban catchments.

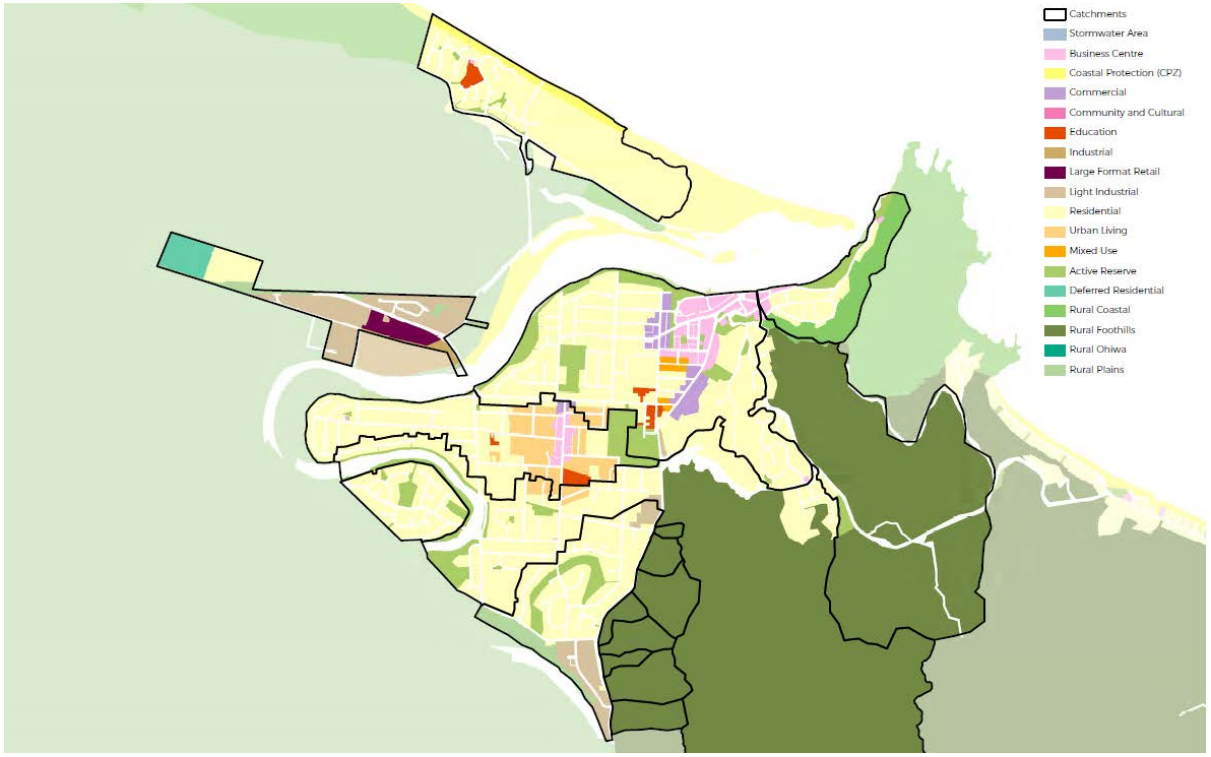

Figure 25: District Plan zones

The zones are defined in Chapter 3 of the District Plan. These definitions largely control the land uses undertaken in each zone.

2.8.1 Existing land use

As noted in section 1.3.1, there are a variety of zones within the Whakatāne Urban Stormwater Catchment area.

The Whakatāne West SC is dominated by Light Industrial zoned properties. These properties typically have a high degree of impermeably, and some are yet to be developed but are zoned as Light Industrial. There is also an area of Large Format Retail Zone where The Hub and associated developments are located. Much of this land is contaminated, due to historic use as a site for mill works. The Industrial Zone property that is the Mill is not included in the catchment area or the CSC, but there is an area of Industrial Zone land that is included within the SC, though under different ownership.

Further west in this catchment is the residential subdivision commonly referred to as the Shaw Road subdivision. There are some undeveloped residential properties, and further west is land that is zoned as Deferred Residential, where the Julian's Berry Farm is located. The Council has had preliminary discussions with the landowners about rezoning the land, but no formal application has been made. The SC is generally bounded by Rural Plains zoned land.

Coastlands/Piripai is dominated by Residential land with spots of non-residential land, such as the Education Zone site, which is designated as Te Kura Kaupapa Māori o Te Orini. There are also areas of

Active Reserve within the SC, and the SC is generally bounded by Coastal Protection Zone. Part of this land has been identified as being within the Coastal Hazard Erosion Risk Area, Rural Coastal Zone, and Rural Plains Zone. There is a small area zoned Business Centre where the Coastlands Dairy is located.

The Whakatāne Township includes large areas of Residential Zone, with an area of zoned to accommodate higher density known as the Urban Living Zone, which is centred around Kōpeōpeō. There are also numerous parks that are generally zoned as Active Reserve, and various schools which are either designated for that purpose or are in the Education Zone.

Further, there are some areas of Light Industrial Zone land, generally near Te Tahi Street, and the eastern end of Alexander Avenue. There is a small area of Commercial Zone land near the Kōpeōpeō centre, and an area to the west of the Whakatāne CBD area, and on the western side of the Apanui Canal. To the east of this is a large area of the Whakatāne CBD which is zoned as Business Centre. Between the Residential zoned land and Business Centre zoned land are areas zoned as Mixed Use.

The Whakatāne Township is generally bounded by areas zoned as Rural Foothills, Rural Plains, or Active Reserve. The township also contains areas that have been identified for their visual character, such as the Whakatāne Escarpment and the various natural sites within it.

2.8.2 Proposed land use

As identified in the Council's LTP 2021, as at September 2020, the Whakatāne District's population was 38,200. This already exceeds previous forecasts, which expected the population to reach its peak at 36,400 in 2028. There is good reason to expect this trend will continue over a longer time period. Over the next 30 years, growth forecasts signal that the Whakatāne district will need approximately 4,000 additional homes.

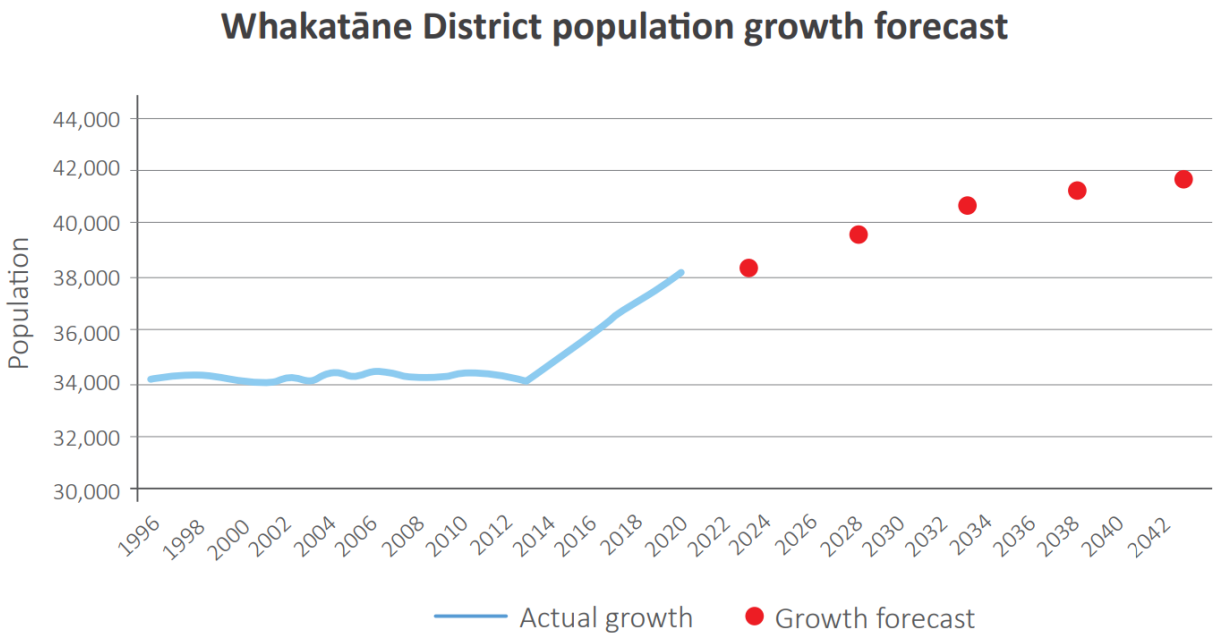

Figure 26: Whakatāne District population growth forecast – taken from the Council's LTP 2021

Growth within residentially zoned areas in the Whakatāne urban area covered by the CMP will be by way of infill and intensification of land use. The District Plan provides for a higher density development zone, being the Urban Living Zone, which is generally around the Kōpeōpeō area.

Intensification of land use will incrementally increase the proportion of impermeable surface within the catchment, thereby increasing the volume and intensity of runoff in rainfall. This trend has been recognised by the Council in the revisions to the ECOP (2008) which require the detention of stormwater to retain hydrological neutrality.

2.9 Existing stormwater management and mitigations

The Council implements a range of measures to mitigate the impact of stormwater discharges on the receiving streams and the Whakatāne River/estuary. These include infrastructure and operational approaches that will be included within the CMP as detailed below.

2.9.1 Stormwater detention

The stormwater detention ponds, canals, and lagoons within the catchments, located on the landward side of the Whakatāne River stopbanks, provide a degree of stormwater treatment. In these lagoons and canals, the solid material in the stormwater is able to settle out, and litter and other large debris collects on screens prior to discharge to the Whakatāne River. These screens are cleared on a regular basis to ensure outlets and pump intakes are not blocked.

The detention assists with removal of sediment. Sediment is regularly removed from the Wainui Te Whara end of Awatapu lagoon. There are also sediment traps located on the Wainui Te Whara stream, upstream of Valley Road.

2.9.2 Maintenance of waterways and storage areas

The aquatic weeds, parrots feather [*Myriophyllum aquaticum*] and water lilies, which are on Sullivan Lake, Awatapu Lagoon and Wainui Te Whara stream, are controlled by spraying no more than three times annually on an “as required” basis. The Council holds resource consents issued by BOPRC for these activities[15].

In the lower reaches of waterways, weed eaters are commonly used to cut vegetation adjacent to waterways when required. Weed spraying is carried out as necessary.

The Council engages a contractor to remove litter from Awatapu Lagoon and the surrounding reserve area. The litter pick-up is carried out at least once per week.

Silt traps and detention areas are inspected regularly and cleaned out when necessary. These areas include White Horse Drive, Wainui Te Whara (just upstream of Valley Road), Canning Place, Sullivan Lake, and the four Waiewe retention dams.

[15] See BOPRC resource consents RM19-0309 and RC 68257 for details

2.9.3 Maintenance of drainage reserves

The grass in the drainage reserves is mown regularly. The contract specification is that grass be maintained within the range of 70 to 125 mm. Mowing of open drains is to be within 1.5 to 2.0 m of the waterline where there is no fence.

2.9.4 Street cleaning

The Council has a programme of street cleaning, reflecting the traffic volumes of the location. The Whakatāne and Kōpeōpeō CBD areas are swept weekly and the main streets within this area two or three times a week. Landing and Domain Roads are swept fortnightly, and all other streets and carparks three-monthly. This cleaning removes debris, litter, sediment and the contaminants attached to the sediments, including heavy metals and hydrocarbons.

2.9.5 Cesspit and soakpit cleaning

These are maintained with a minimum 200 mm freeboard from the outlet pipe at all times. Cesspits are cleaned out at least annually prior to winter after the fall of leaves.

Cesspit grates are kept clear of litter, leaf build-up, and other debris with additional clearing during periods of heavy rain to maintain the cesspit free of debris, so that water does not pond.

2.9.6 Wastewater overflows

There are no designed overflow points for wastewater into the stormwater system. The stormwater system has been designed to “stand alone” from the wastewater system. Any leakage of wastewater to the stormwater system would be from damaged pipes or manholes. Any such leaks are repaired when found. There are known areas where the wastewater system suffers from excessive infiltration and inflow during wet weather. There is a programme in place to rectify these sewers. The wastewater and stormwater connections for all buildings are checked as part of the building consent process. If illegal connections were discovered, the contractor would be required to rectify the problem and achieve compliance with the Building Code.

There are examples of wastewater pipes that cross waterways, such as at the Wairere Stream Quay Street bridge. These can degrade over time or be damaged in various events, and this may yield a wastewater overflow into the waterway. If this does occur, it will typically be rectified quickly.

2.9.7 Spill response

In conjunction with BOPRC, the Council responds to, and oversees, the clean-up of accidental discharges to the stormwater system. An example of such response is placing oil absorbent booms across drains. Enforcement action and cost recovery is carried out when an offender is identified.

2.9.8 Pollution Prevention Plans

The Council plans to implement stormwater education and Pollution Prevention Plans (“**PPP**”) focusing on commercial and industrial activities.

At present, if a contaminant is detected, the Council undertakes sampling and attempts to trace and identify the source. Subsequently, the persons responsible are provided with information on the risks and implications of the spillage.

It is anticipated that that implementation of the PPPs will be required via any conditions of consent granted for this application.

2.9.9 Trade waste management

The Council has a Combined Waters Bylaw 2017 that controls, among other things, how trade wastes are managed in relation to the reticulated wastewater system. The Council also holds a database of sites that dispose of trade waste and undertakes a site audit programme. This provides a method of managing discharges to sewer and the storage of potentially hazardous materials. It also provides a means of directing education efforts to potential problem areas. Implementation of the bylaw, and the associated inspection regimes, helps to ensure that the risk of discharge of contaminants from trade premises to the stormwater system is minimised.

The majority of the properties on the database are considered to be of low risk, being mainly food and retail related facilities.

2.9.10 Sullivan Lake

Methods of improving the water quality in Sullivan Lake have been trialled by the Council and BOPRC since 2005. A trial was undertaken to address the problem of eutrophication and resultant algal blooms and weed growth using 'environmentally friendly' water treatment products. Flushing water is also pumped into the lake from the Whakatāne River during dry weather. The Sullivan Lake Care Group was set up in 2013 to help residents address the issues with water quality in the lake. While stormwater is one of the influences on the lake water quality, the lake is an essential part of the stormwater system in the Whakatāne South catchment, buffering and detaining flows to the St Joseph's pump station.

The Whakatāne District Reserve Management Plan applies to all reserves owned and/or administered by the Council. An individual reserve management plan has also been prepared for Sullivan Lake. The Sullivan Lake Reserve Management Plan, which was adopted in 2015 and updated in 2019, identifies five goals including managing and enhancing conservation values and managing and improving water quality.

2.9.11 Enforcement

Where necessary, the Council uses enforcement measures under the RMA and LGA, such as abatement and infringement notices, to ensure compliance with the District Plan and bylaws.

3 Receiving environment

3.1 Surface water bodies

As discussed previously the urban catchment discharges to a variety of streams, drains, lakes and wetland/stormwater ponds, and these all effectively discharge to the Whakatāne River.

Large areas of the Whakatāne township are constructed on drained and built-up land. Significant modification to water flow paths has occurred during the town's development. Water bodies are now positioned within the catchment as per **Figure 28**.

Figure 27: Excerpt from Survey Office Plan SO 2566 showing areas that were identified as wetlands or swamps in ~1881, in the McAlister, Beach, Bracken Streets and McAlister Road area

From an RMA context, not all the water bodies satisfy the '*river*' definition[16], as a number are artificial. This includes the following:

- Apanui Canal
- Kōpeōpeō Canal
- Paru Wetland (stormwater pond).

[16] *The RMA defines river as meaning: a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal).*

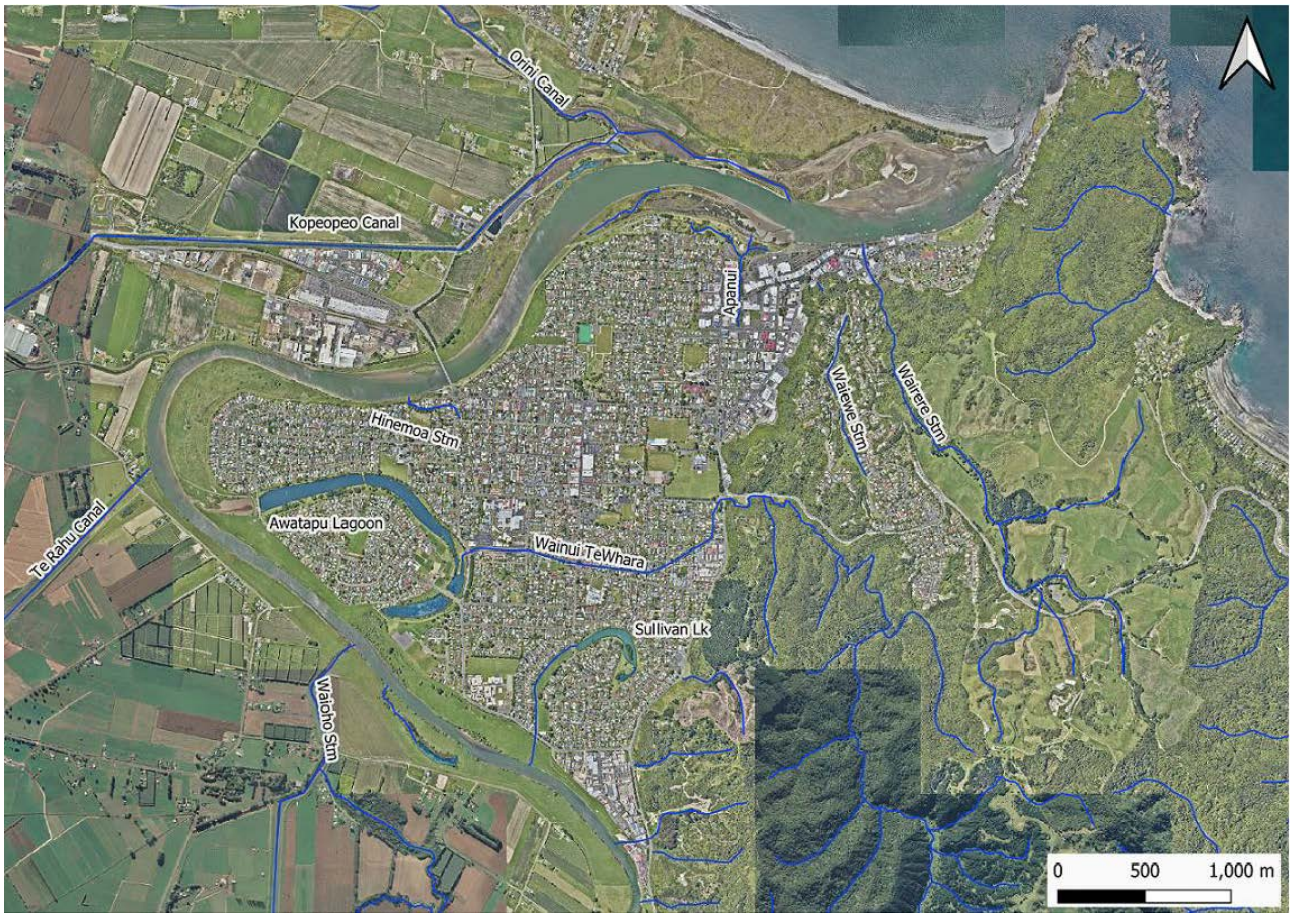

Figure 28: Water bodies within the Whakatāne urban area

The Kōpeōpeō Canal, built in the 1920s to convey drainage and floodwaters from low-lying farmlands in the Rangitāiki Plains into the Whakatāne Estuary, was contaminated between the 1950s and late 1980s as a result of stormwater discharges from a former sawmill, which treated timber using pentachlorophenol. While unknown at the time, pentachlorophenol imported into New Zealand for use in the timber processing industry also included a percentage of impurities that contained dioxins. In the late 2010s, after much research, and granting of appropriate resource consents, work commenced to remediate the canal of these contaminants. This work has been largely completed, with ongoing bioremediation of the removed sediments to continue for many years to come.

Aerial imagery from the 1930s (Figure 29) shows a drainage canal in the approximate position that the Apanui Canal now sits, and the Paru Wetland positioned in what used to be the mudflats of the river estuary.

Figure 29: Apanui Canal in May 1937[17]

[17] Image sourced from www.retrolens.co.nz. Picture brightness set to -10% and contrast increased by 50% to more clearly identify the subject matter.

Figure 30: 1937 Split with 2020

Water bodies within the urban area that meet the river criteria of the RMA include the following:

- Awatapu Lagoon
- Hinemoa Stream
- Orini Canal
- Sullivan Lake
- Waiewe Stream
- Wairere Stream
- Wainui Te Whara Stream
- Whakatāne River.

Part 3 of the Hamill Report notes the "*[k]ey waterways within the Whakatāne stormwater network area with reasonable ecological values or potential ecological values are: Whakatāne River, Wainui Te Whara Stream, Waiewe Stream, Wairere Stream, Awatapu Lagoon, Sullivan Lake, and to a less extent the lower section of Apanui canal and Hinemoa drain.*"

The following descriptions of the receiving water bodies are summarised from the Hamill Report. The water quality classifications that apply to each water body under the RNRP are identified in Table 2.

3.1.1 Awatapu Lagoon

Awatapu Lagoon is a 12.9 ha oxbow lake created when the Whakatāne River was straightened as part of a flood control scheme by the then Bay of Plenty Catchment Commission in 1970. The water depth in the lagoon is typically about 1.7 m with the deepest areas of about 4.3 m located on what would have been outside bends of the river.

The lagoon is divided into three sections by causeways at the foot bridge and Bridge Street:

- The western section (4.62 ha) connects the lagoon to the Whakatāne River via a fish friendly flap gate installed in 2012. This provides for fish passage and allows water from the Whakatāne River to enter the lagoon during .high tides. The water in this section is brackish.
- The eastern section (ca. 5.56 ha) receives water from the Wainui Te Whara Stream which enters the lagoon about midway along its length. Sand from the Wainui Te Whara Stream has formed a shallow delta where it enters the lagoon, and part of this has been shaped by the Council to assist with sediment removal that is done to minimise risk to upstream flooding.
- The southern section of the lagoon (2.75 ha) is the old entrance from the Whakatāne River, but now has only stormwater inflows. This area has very little flow.

3.1.2 Hinemoa Stream

Hinemoa Street drain enters the Whakatāne River upstream of Landing Road Bridge, via a gravity flap gate and pump station. It has a completely urban catchment and only about 350 m of open channel. Upstream of Hinemoa Street, the stream opening extends for about 60 m from the piped network. This section has very little shade and the riparian edge is predominantly mown grass. Immediately downstream of Hinemoa Street, the stream has about 40 m of open channel, followed by 230 m of channel shaded by mature trees and shrubs. Connection to the Whakatāne River is via flap gates. The stream is slow flowing, the upper reaches are shallow, but the downstream reach is reasonably deep. The substrate along the stream is dominated by sand and silt.

3.1.3 Orini Canal

Orini Canal is the original channel of the Rangitāiki River to the Whakatāne River prior to diversion. It now forms part of a drainage network on the Rangitāiki Plains. It has a catchment area of about 1680 ha and estimated mean flow of 0.27 m^3/s.

The catchments of the Orini Canal and Kōpeōpeō Canal are dominated by high producing pasture and horticulture land use. A small amount of urban stormwater enters the Kōpeōpeō Canal from the Gateway Drive Light Industrial area, and a small amount of urban stormwater enters the Orini Canal from Coastlands, via a stormwater pond at Keepa Road.

The riparian habitat along most of the Orini Canal and Kōpeōpeō Canal is poor, but the inter-tidal riparian vegetation along the lower section of the Orini Canal and Kōpeōpeō Canal has sections of high-quality habitat that is representative of an originally rare ecosystem type.

3.1.4 Sullivan Lake

Sullivan Lake is shallow, sheltered, rich in nutrients, and generally has poor water quality and poor clarity. The lake area is about 2.7 ha and has a median water depth of about 1.2 m. Several small streams from the escarpment east of Valley Road enter Sullivan Lake via the stormwater system. During the summer the Council often pumps water into the lake to help improve the water quality and provide some flushing. The water levels are controlled by a weir with water flowing under King Street with a gravity discharge to the Whakatāne River.

The inlet to the lake at the southern end incorporates a sediment trap in the form of a low bund. Four of the six main stormwater pipes feeding into the lake discharge upstream of the bund.

In 2019, part of Sullivan Lake was suction dredged to remove fine sediment. Prior to dredging, the fine sediment (silt and clays) in the lake was typically about 0.65 m deep (range 0.1 m to 0.9 m).

In the past, there were anecdotal reports of sewage overflows on Douglas Street during heavy rain events. This could have contributed considerable nutrient and organic load to the lake. However, any potential for such overflow was addressed in 2012 by improving the wastewater system inflow (new 300 mm sewer pipe) and outflow by doubling the capacity of the pump station at Douglas Street. There have been no reports of sewage overflows since this improvement.

3.1.5 Waiewe Stream

The Waiewe Stream flows in open sections alongside Waiewe Street, is piped down Hillcrest Road, flows as a waterfall and open stream besides the Hillcrest steps, and is then piped under The Strand towards the paru flax dyeing wetland and ponding area near McAlister Street. This lower section collects water from the Apanui SC, which drains to the Whakatāne River via flap gates and pump stations at McAlister Street and the Rose Gardens.

Fish migration up the Waiewe Stream is naturally restricted by the Hillcrest waterfall, and further restricted by the long, steep culvert down Hillcrest Road. Mature eel have been observed in the upper sections of Waiewe Stream in early 1980s but this was likely to be an isolated occurrence and baited gee minnow traps set for two nights in 2012 did not capture any fish. The Freshwater Fish Database has records of shortfin eel (tuna hinahina), īnanga, and gambusia in the lower section of the Waiewe Stream/wetland.

3.1.6 Wairere Stream

The Wairere Stream has its headwaters near Burma Road, flowing through predominantly farmland, with a small amount of the catchment in native forest and in residential urban land use, before dropping over the Wairere Falls and flowing ca. 250 m to the Whakatāne River at Quay Street. The now closed Burma Road landfill is at the head of the catchment. The catchment area is about 288 ha and the estimated mean flow is about 47 L/s.

Only a small amount of urban stormwater enters the Wairere Stream from low density residential in Seaview Road, Hillcrest Road, and Carling Road. Below the Wairere Falls some (ca. 2 ha) of the commercial land use discharges to the Wairere Stream.

3.1.7 Wainui Te Whara Stream

The Wainui Te Whara Stream has a catchment size of 5.75 km^2 and a median flow of about 54 L/s. It cascades steeply down Mokoroa Gorge and at the base of the hill, downstream of Valley Road, the gradient flattens and the catchment becomes urban. From the Valley Road bridge, the stream flows about 1.75 km through Whakatāne urban area into the Awatapu Lagoon and the Whakatāne River. The upper catchment consists of steep hillside predominantly covered by indigenous forest (64%) and farmland (35%) in the headwaters. The lower catchment downstream of Valley Road is about 5% of the total catchment area and is predominantly residential and commercial land use.

The urban catchment of the Wainui Te Whara Stream, below Valley Road, is a straightened and channelised urban stream, confined within stopbanks. The riparian margin is mown grass and there is little or no riparian cover. As the Wainui Te Whara flows through the town, the stream substrate size reduces from large gravel to small gravel embedded in sand (Hamill 2015).

A sediment trap was formed upstream of Valley Road in about 2015, and gravel substrate is regularly removed. This appears to have reduced the size of gravel substrate on the stream bed. The Council widened the channel of the Wainui Te Whara Stream downstream of Valley Road.

3.1.8 Whakatāne River

All of Whakatāne Township's stormwater flows either directly, or indirectly, to the Whakatāne River. The Whakatāne River has a catchment area of about 1,738 km^2, a median flow of 36.2 m^3/s, and a mean annual low flow of 10.1 m^3/s. The catchment land cover is about 84% native forest, 4% exotic forest, 9% high producing pasture, and less than 1% urban.

The lower section of the Whakatāne River is an important recreational area and ecological habitat. The river and riverbanks are used for boating, swimming, and fishing. The Whakatāne Rowing Club occupies the southern riverbank immediately west of the Landing Road Bridge and the Whakatāne Yacht Club is accessed from Kakahōroa Drive. The Council owns numerous structures within the Whakatāne River (refer to resource consent 63170), including a boat ramp and Whakatāne Wharf. Both structures provide for privately owned vessels to moor (with a licence) and launch. Operators include tour boats and fishing charters, commercial fishing, and recreational users. Swimming in the Whakatāne River is especially popular during the summer months, with the area near the Whakatāne Rowing Club and Wairaka Centennial Park providing easy and safe access to the water.

The Whakatāne River estuary salt marsh is one of the few estuarine wetlands remaining in the Te Teko Ecological District. Although the wetland habitat has been reduced in size and heavily modified, there remain areas of high-quality salt marsh identified as Indigenous Biodiversity Areas in the RCEP. Typical vegetation in the salt marsh is the ribbon wood (*Plagianthus divaricatus*) and sea rush tussock land (*Juncus kraussii*). The salt marsh is an important habitat for fish and birds. Eight threatened bird species have been recorded including banded rail [Moho Pererū], spotless crake [Pūweto], North Island fernbird [Kōtātā], NZ dotterel [Tūturiwhatu], white heron [Kōtuku], reef heron [matuku moana], and bittern [matuku]. Other native birds commonly observed include hawks [Kārearea], grey ducks [Pārera], kingfisher [Kōtare], and royal spoonbill [Kōtuku-ngutupapa].

Fourteen native fish species have been recorded in the Whakatāne River catchment, as well as several introduced fish including brown trout and rainbow trout. Most of the native fish either live in the lower river and tributary streams, or are diadromous so must migrate through the lower river to the sea for part of their life cycle. In addition to the freshwater fish, the lower saline section of the Whakatāne River is used by marine fish including grey mullet [Kanae], yellow mullet [Aua / Kātaha], Parore, and Kahawai.

BOPRC has recently started restoring wetland habitat in sections of the lower Whakatāne River with the construction of īnanga rearing habitat upstream of Landing Road bridge in 2020. There is considerable potential for further wetland restoration within the stopbank section, through the urban area, including areas near the outlet and original inlet to Awatapu Lagoon.

The tidal influence and salt wedge extend up the Whakatāne River to the southern urban boundary. It is likely that all of the lower tributaries have some degree of saline influence near their confluence with the Whakatāne River during baseflow conditions.

3.2 Water quality and ecological values

The results of in-stream monitoring of the identified receiving water bodies (previously identified) are provided in:

- 0 – WSP Report
- 0 – Hamill Report.

All water bodies within the urban stormwater network (as depicted in Appendix 1) are already receiving and conveying stormwater. The monitoring results within the WSP Report and the Hamill Report reflect the current state of those water bodies. These results are discussed further in section 7.

3.3 Wetlands

The following wetland description is from section 3.11 of the Hamill report.

The NPS-FM has policies relating to wetlands including: “Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted”.

“Wetland” is defined in RMA as:

“*Wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions*.”

Natural wetlands are defined in the NES-F and NPS-FM as:

> *“**natural wetland** means a wetland (as defined in the [RMA]) that is not:*
>
> *a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or*
> *b) a geothermal wetland; or*

c) *any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling".*

A **natural inland wetland** means a natural wetland that is not in the coastal marine area.

Wetlands that have been constructed to offset impacts on, or restore, an existing or former natural wetland, and induced wetlands, are treated as natural inland wetlands. MfE (2021) notes that: *"'Induced wetlands' are wetlands that have resulted from any human activity, except the deliberate construction of a wetland or waterbody by artificial means. They are considered 'natural wetlands'"*.

The Whakatāne River salt marsh on the true right of the river (receiving water from McAlister Stream pump station and the Rose Garden pump station) and true left of the river including a riparian area adjacent to Orini Canal can be clearly characterised as a natural wetland. BOPRC has also undertaken restoration along sections of the Whakatāne River upstream of the Landing Road bridge, creating ponds for inanga rearing habitat and planting riparian vegetation.

The Paru Wetland near the confluence of the Waiewe Stream and the Apanui Canal is in a location that appears to have been estuarine mudflats prior to the establishment of the stopbanks (see aerial photos in the CMP). The area appears to have been deliberately created and restored for use as a wetland. It does not appear to be a remnant wetland habitat and is thus likely classed as 'created' rather than an 'induced' or 'natural' wetland.

The Awatapu Lagoon has a narrow fringe of raupō along much of its edge and some recent riparian planting. This raupō fringe is likely to be classified as a wetland feature that formed after the oxbow but would need additional assessment to confirm. However, Awatapu Lagoon was formed/constructed with the diversion of the Whakatāne River in 1970 and the water body is used as an important part of the flood management system, so the raupō margins probably do not meet the definition of "natural" wetlands because they are incidental to the creation and operation of the oxbow (see MfE 2021).

There are no natural or induced wetlands associated with Sullivan Lake, but there has been some recent riparian planning, including native wetland species, along small sections of the lake.

There is a small wetland associated with the Waiewe Stream in the Waiewe Street drainage reserve. Some of the drains in the Waiewe Street reserve that form the headwaters of the Waiewe Stream have infilled with wetland plants in recent years, and these provide a degree of water treatment. It is not clear if the wetlands near Waiewe Stream were deliberately constructed as water bodies in the past or are induced wetlands, formed by the unintended ponding behind culverts; the latter would fall under the definition of a "natural" wetland.

Although there are only limited areas of natural wetlands in the Whakatāne stormwater area, there is considerable potential for creating wetlands for habitat and water quality treatment. This includes sections near Amber Grove, Apanui Canal, Awatapu Lagoon, and Sullivan Lake.

4 Stormwater network management

4.1 Proposed approach

4.1.1 Measures to be adopted

The Council proposes to adopt an adaptive management process that enables management of the stormwater network to evolve over time in response to monitoring data and changes in technology, knowledge, the environment, and the statutory framework. The iterative process will help to identify what future developments, improvements, or changes are required.

The proposed adaptive management approach seeks to:

- use technical reports to define the current baseline
- propose qualitative environmental performance objectives
- through the consent process, develop quantitative "trigger/s" to inform compliance outcomes in respect to performance objectives
- determine operational monitoring
- define management practices and standards required to achieve environmental performance objectives
- use monitoring results and "learnings" to measure success against defined outcomes and to improve management practices.

4.1.2 Catchment Management Plan

To enable adaptive management of the network, the Council has compiled the CMP included as Appendix **5**. This operational document draws upon experience, technical documents, and plans submitted with this consent application. Through the CMP, the Council defines the objectives and outcomes sought via the operation of the stormwater network. The CMP contains the following objectives:

1. Provide a safe, affordable and resilient stormwater system
2. Reduce flooding and protect the community
3. Facilitate tangata whenua and community involvement in stormwater management, including encouragement to take actions to reduce pollution and to maintain and restore ecosystem health
4. Recognise and respect mana motuhake – the whakapapa and relationship that mana whenua have with water ecosystems in their rohe
5. Protect and enhance ecosystem health of all receiving environments
6. Co-design with nature an integrated and regenerative approach to stormwater management and urban design where possible
7. Address pressures on water bodies at, or close to, source
8. Collect and share information to promote common understanding of urban water issues, solutions and values
9. Increase resilience to natural hazards and climate change
10. Encourage water reuse.

Through the CMP, the Council seek to achieve the following key outcomes:

1. Reduce the risks and mitigate the adverse effects of stormwater flooding on the Whakatāne urban built environment to help protect the health and safety of Whakatāne people and their land and property. The built environment includes private and public property and infrastructure. Examples of the public infrastructure include district urban roads and the wastewater network.
2. Minimise the rate of urban stormwater discharge to waterways where this is appropriate, realistic and cost effective (through Low Impact Design).
3. Avoid, remedy, or mitigate adverse effects of stormwater discharges on rivers, streams, wetlands, and aquatic ecosystems.
4. Ensure stormwater discharge does not degrade the water quality in the receiving environments.
5. Streamline and simplify the administration of and compliance with consents for stormwater discharge.

Within the CMP, the Council has proffered actions and minimum performance requirements for each of the Strategic Objectives collectively as the 'Six-Yearly Targets'. These targets will be used by the Council to determine compliance ,review performance, and determine if/where changes to the management of the network is required.

As part of the iterative process, the CMP is to capture programmed works and future upgrades to the network as they are approved and budgeted through the Council's LTP process. As such, the CMP will be updated at least every six years from the commencement of the CSC.

The CMP is to be the document that also defines the catchment area of the stormwater network. It is envisaged that any new area of land that is to be developed, and as a consequence contribute stormwater to the Council's system, will be required to first obtain resource consent for its discharge and any associated structures. This is discussed further in section 8.3.

4.1.3 Stormwater Monitoring Plan

The draft SMP sets out how, when, and where the Council proposes to monitor parts of the stormwater network along with receiving environment/s. It also proffers the values and limits that the Council will use to determine if the stormwater system is being managed appropriately. The SMP will be finalised within 12 months of the CSC being granted and submitted to BOPRC for certification. Thereafter, the SMP will be reviewed every six years and submitted to BOPRC for recertification.

The monitoring results will be used to inform any management review and to determine if any changes in management of the network are required to ensure the limits/values in the receiving environment are achieved.

4.1.4 Cultural monitoring

The Council will consult with TRONA to establish effective mechanisms for engaging iwi and hapū in ongoing implementation of the CSC. This will include seeking direction and agreement from TRONA on appropriate cultural monitoring and indicators for inclusion in the SMP. The six yearly review of the SMP will include opportunity to revise the cultural monitoring and indicators.

4.2 Existing management tools

4.2.1 Engineering Code of Practice

The Council implements the ECOP, which sets out engineering standards and guidelines as a way for future developers and designers to understand the requirements when designing and/or building a stormwater system that is to be adopted into the Council's stormwater network.

The ECOP is used as a design standard for any replacements and/or upgrades required within the system, and is also used to determine the Best Practicable Option ("**BPO**") when considering system design/s.

4.2.2 Combined Waters Bylaw 2017

The purpose of the Combined Waters Bylaw 2017 is to manage, regulate, and protect from misuse or damage the Council's water supply, wastewater, trade waste, and stormwater systems, and protect the public from nuisance and ensure effective health and safety.

The bylaw provides an improved level of protection to the Council's stormwater system by setting a series of standards or requirements that need to be met before a connection to the system will be allowed. To ensure the Council is capable of controlling inputs from private property into its stormwater network, the bylaw provides a mechanism for the Council to control these inputs, and where necessary, require PPPs from high-risk sites, specifically addressing the management of sites with high-risk pollutants contained within.

4.2.3 Changes to other Council documents

Following the granting of the CSC, Council anticipates that changes will need to be made to the ECOP and CMP. There is also the potential for future changes to the District Plan should such potential changes be identified through the implement of the CSC and CMP as being appropriate to reduce effects from the stormwater network.

Similarly, should any changes be required to the LTP, asset management plan, ECOP, or any other Council document, the Council will need to follow the prescribed review and implementation process from the relevant piece of legislation.

5 Alternatives

When considering discharge permits, the consent authority (BOPRC) must under section 105(1)(c) of the RMA, have regard to any alternative methods of discharge.

The way an urban area collects, transfers, and disposes of its stormwater is highly dependent on the environmental constraints determined by the physical environment the urban area exists in.

The development of urban areas traditionally has involved the increase of impervious surfaces, resulting in a need to transfer increasing volumes of water to the downstream receiving environments and stormwater networks largely being designed around conveyance of water to avoid or reduce flooding. This design methodology tends to have a negative effect on the receiving water quality and exacerbates flooding in the downstream catchments.

Newer urban designs seek to maximise retention of stormwater at or near where the water is collected, maximising infiltration where possible and delaying the speed at which stormwater collected in upper catchments travels downstream. The intent is to reduce the volume of water needing to be conveyed and minimise flooding effects in the downstream areas.

The bulk of the Whakatāne Township is positioned in a unique location on low lying land, bound between a steep upper catchment and a low land river, the consequence being rapid arrival of upstream stormwater, and limited ability to remove stormwater from within the stopbanks pending river flows and tidal influences.

Coastlands is predominantly positioned on back dunes, with the majority of stormwater discharged to land infiltration. The Hub area has some capacity for infiltration. However, with the developed areas of The Hub being dominated by roofs and hard stand areas, the predominant stormwater discharge is to the Kōpeōpeō Canal.

While the ECOP and the District Plan promote the retention and maintenance of infiltration capacity, the bulk of the urban catchment has limited ability to dispose of water via infiltration due to shallow winter groundwater and limited space.

Given the location of the urban catchments, there are no feasible options other than the Whakatāne River being the ultimate receiving environment.

6 Consultation

The Council has carried out extensive consultation on the Whakatāne urban stormwater systems and future management options as part of its Whakatāne Stormwater 2050 project. Information about development of the CSC and the Whakatāne Stormwater Catchment Management Plan was shared at two public meetings on 15 and 16 August 2018 and drop-in sessions on 20 and 22 August 2019, with feedback sought from the community on stormwater issues they had experienced and potential solutions. Comments were received from 29 meeting attendees in 2018. Thirteen people completed an online survey conducted in conjunction with the open days in 2019, with 85% percent of respondents identifying stormwater management as very important for Whakatāne.

6.1 Consultation with tangata whenua

The Council has provided TRONA with regular updates and opportunities for input into the development of the CSC. Following advice from TRONA that the appropriate level for consultation was with hapū within which the stormwater network flows, the Council contacted the below hapū in July 2020:

- Ngāi Taiwhakaea
- Te Patuwai
- Wairaka
- Wharepaia
- Ngāti Pūkeko
- Ngāti Hokowhitu.

The Council provided information to hapū about the Whakatāne stormwater network and the proposed CSC and requested engagement to discuss future stormwater management. Of six hapū contacted, only Ngāti Hokowhitu responded.

The Council met with Ngāti Hokowhitu in August 2020 and presented on how the CSC will improve stormwater management in Whakatāne, including through the use of water sensitive design and natural, regenerative approaches to managing stormwater, addressing contaminants at source through the use of PPPs for high-risk sites, and education about how everyone's actions can affect stormwater. Ngāti Hokowhitu representatives described their interest in the development of the CSC and there was discussion about ongoing iwi involvement throughout the duration of the CSC.

A cultural impact assessment (CIA) has been provided by TRONA and is attached in Appendix 9.

6.2 Consultation with other stakeholders

In undertaking "Whakatāne Stormwater 2050" consultation, the Council sought to engage with:

- Landowners, property and business owners and the community of Whakatāne
- Tāngata whenua
- BOPRC staff, including the Engineering and Rivers and Drainage teams
- Department of Conservation
- Eastern Region Fish & Game

- Forest and Bird
- Receiving water user and interest groups – such as recreational users, relevant care groups (e.g. Awatapu Lagoon Restoration Group, Waiewe Stream Reserve Restoration Group, Sullivan Lake Care Group, Apanui Saltmarsh Group), and harbour users.

To date the following engagements have occurred:

Forest and Bird

The Council has provided Forest and Bird with regular updates on progress with developing the CSC, including a summary of the proposed process for the CSC application on 8 November 2019.

Department of Conservation

In 2019, Council staff met with staff from the Department of Conservation (**"DOC"**) to discuss the proposed CSC. The Council provided DOC with a summary of the proposed process for the CSC application on 8 November 2019.

Fish & Game

In November 2019, the Council provided Fish & Game with information summarising the proposed approach to stormwater management in Whakatāne and sought feedback. Fish & Game reviewed the proposal and responded that they had no concerns within their statutory mandate, with regard to sports fish (trout) or game birds and their habitats, and did not believe Fish & Game was an affected party for the CSC application.

Bay of Plenty Regional Council

A meeting was held in December 2019 with staff from BOPRC's Rivers and Drainage Assets and Rivers and Drainage Operations teams. The Council provided BOPRC with a summary of the proposed CSC and stormwater quality and quantity approach, including the key relationships between the Council's documents and processes as they relate to the CSC. Discussion included issues, constraints and challenges identified by BOPRC with the proposed CSC process.

7 Assessment of Environmental Effects

7.1 Cultural

A CIA from TRONA is included as Appendix 9. The CIA notes "[a]ll waterbodies hold value to Ngāti Awa. Those with degraded water quality, still hold potential for mauri restoration…TRONA seeks the continual improvement of water quality in all freshwater and coastal environments, particularly where current standards may not be being met. Stormwater has the potential to generate significant impacts to the mauri of freshwater. Our rivers and streams are pātaka and mahinga kai, supporting the health of our taonga species and mahinga kai. Stormwater contains contaminants such as nitrogen and phosphorous that impact on mauri through reducing water quality."

7.2 Flooding

Large portions of the Whakatāne township are built upon flood plains of the Whakatāne River, with some portions on reclaimed land from the river and estuary itself. Reclaimed land includes the area around Quay Street and Kakahōroa Drive. This is partly evident when comparing an early survey of the town (see Figure 31) and contrasting it with a picture of the town from today.

Figure 31: Historic plan of the Whakatāne Township and farm sections, dated 1882

To protect the township from the river flooding, a stopbank has been constructed adjacent to the river, with the eastern stopbank elevation sized to protect the town from an event greater than a 1% AEP river event.

The consequence of the town being protected by stopbanks is the negative impact on gravity drainage of water bodies within the stopbanks and stormwater draining after storm events. Flap gates exist on several outlets into the Whakatāne River, allowing gravity flow to occur when the height of the river is suitable. However, flood events and high tides cause the flap gates to close, preventing water backflowing through

the culverts and back into the township. Consequently, stormwater backs up within the urban catchment behind the stopbanks during these events, potentially flooding land and buildings. To mitigate the effects of this, pumps have been installed in strategic locations within the town to move water and pump it over the stopbanks into the river and out of the urban catchment. The quantity of water able to be pumped is limited to the capacity of the pumps. Some rainfall events result in ponding/surface flooding significant enough to cause inundation of properties.

To better quantify the effects of flooding within the catchment, the Council initiated a project to model the urban stormwater network's functions and resultant ponding height. Pre-determined storm events within the Whakatāne Urban Stormwater Network were used to model likely flooding effects within the township given the existing network and infrastructure. This modelling is included as Appendix 4. Figure 32 is from Appendix 4 and depicts the extent of the catchments modelled within the urban network.

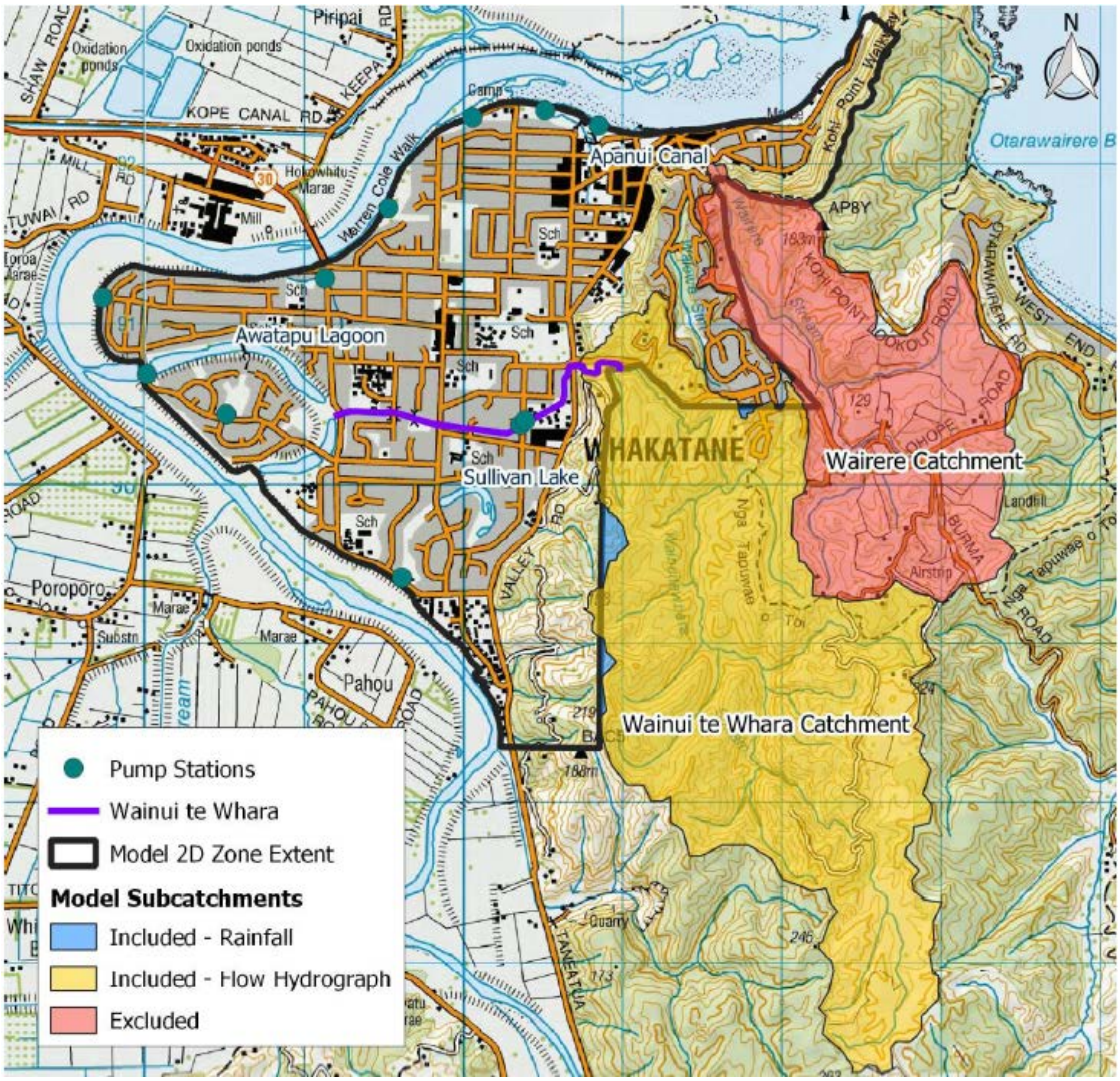

Figure 32: Whakatāne stormwater model catchment extent

The modelling is used to determine likely ponding or flooding depth given the defined AEP rainfall event. For the purposes of modelling, the catchment was broken up into 15 separate catchments relating more specifically to the discharge point of each catchment. Figure 33 from Appendix 4 shows the location of the defined catchments.

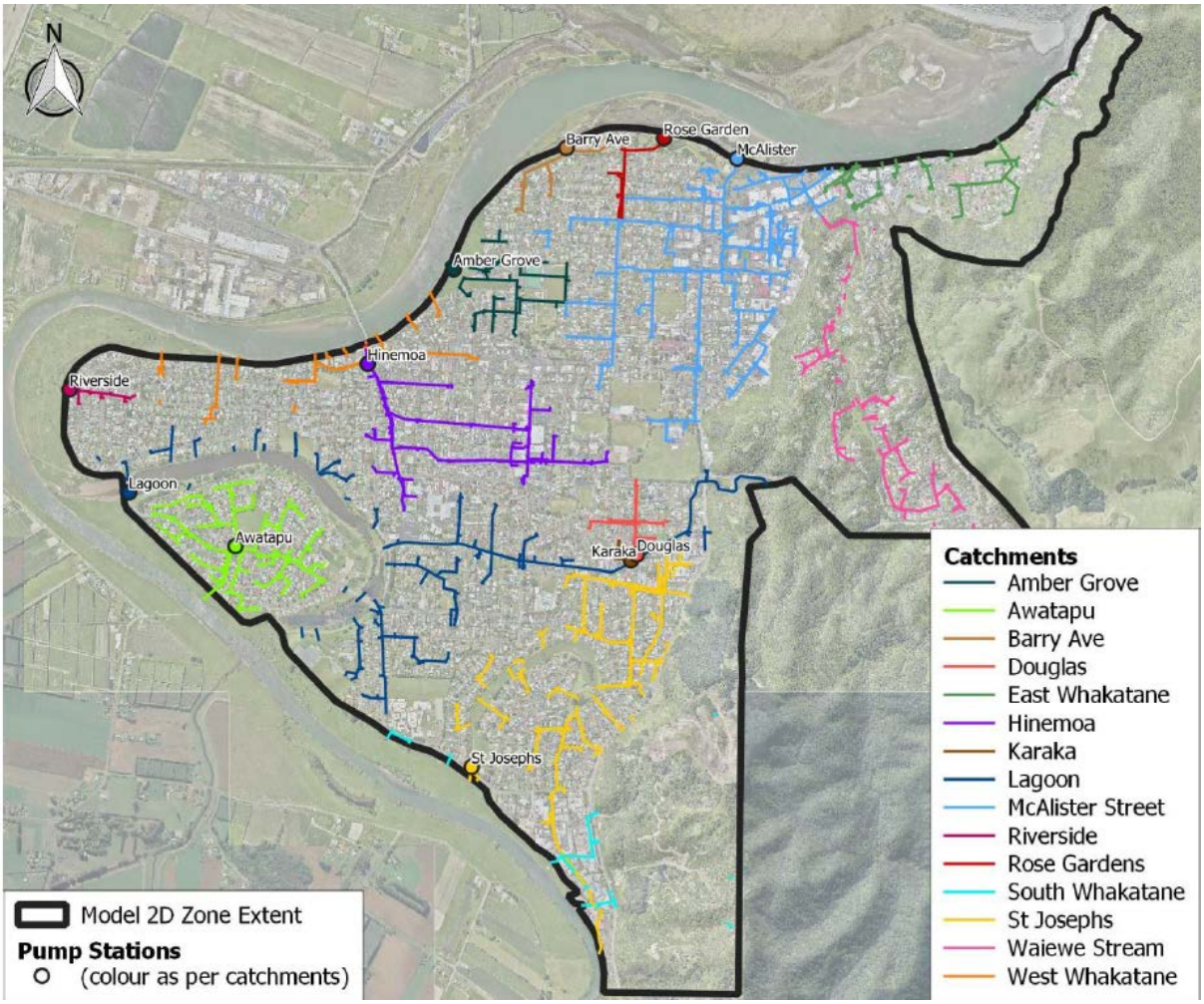

Figure 33: Stormwater network catchments

Through undertaking the modelling, the Council sought to:

- understand current limitations in the primary system (pipes and pumps) against the defined level of service
- map and define overland flow paths, so that new development work can avoid these areas
- establish 1% AEP design flood elevations which will be used as the basis for setting minimum building platform levels
- produce information that can be used on LIM reports, so prospective property owners are aware of any flood hazards
- provide inputs to RPS risk assessments
- assist in the development of future infrastructure investment programmes (based on the stormwater investment strategy).

The Council uses the model when assessing options and scale of infrastructure upgrades. Since the model was completed, the Council has used it to refine pump station capacity of three pump station upgrade proposals (Barry Avenue, Hinemoa stormwater pump station and Riverside stormwater pump station).

Utilising the outputs from the modelling the Council has:

- determined from the result that for the 10% AEP (design started for new pipes), only about 10% of the network is operating below peak capacity

- commenced mapping/defining overland flow paths to prevent development within these areas that would restrict stormwater flow
- used the modelled results to determine site specific flood elevations
- commenced recording potential flood hazards onto property LIM reports
- utilised the model when assessing options and scale of infrastructure upgrades.

Rule 18.2.3.2 of the District Plan stipulates:

> "*All building platforms, other than t]hose for detached and non-habitable Accessory Building must account for flooding and include stormwater system designed in accordance with NZS4404:2010 Land Development and Subdivision Infrastructure Section 4.3.5.2 or subsequent revision, provided that the minimum free board shall be measured to the building platform level, not the underside of the floor joists or underside of the floor slab".*

Section 4.3.5.2 of NZS 4404:2010 states:

"The minimum freeboard height additional to the computed top water flood level of the 1% AEP design storm should be as follows or as specified in the district or regional plan:

Freeboard	***Minimum height***
Habitable dwellings (including attached garages)	*0.5 m*
Commercial and industrial buildings	*0.3 m*
Non-habitable residential buildings and detached garages	*0.2 m*

The minimum freeboard shall be measured from the top water level to the building platform level or the underside of the floor joists or underside of the floor slab, whichever is applicable."

The Stormwater Modelling report concludes: "We consider that 500 mm is a pragmatic approach for most cases, freeboard may need to be increased for some properties such as where land settlement is known to be significant issue".

This has been clarified in advice that the Council has published detailing the meaning of the Minimum Building Platform Level, and providing a visual aid on how to interpret the rule, shown in **Figure 34**.

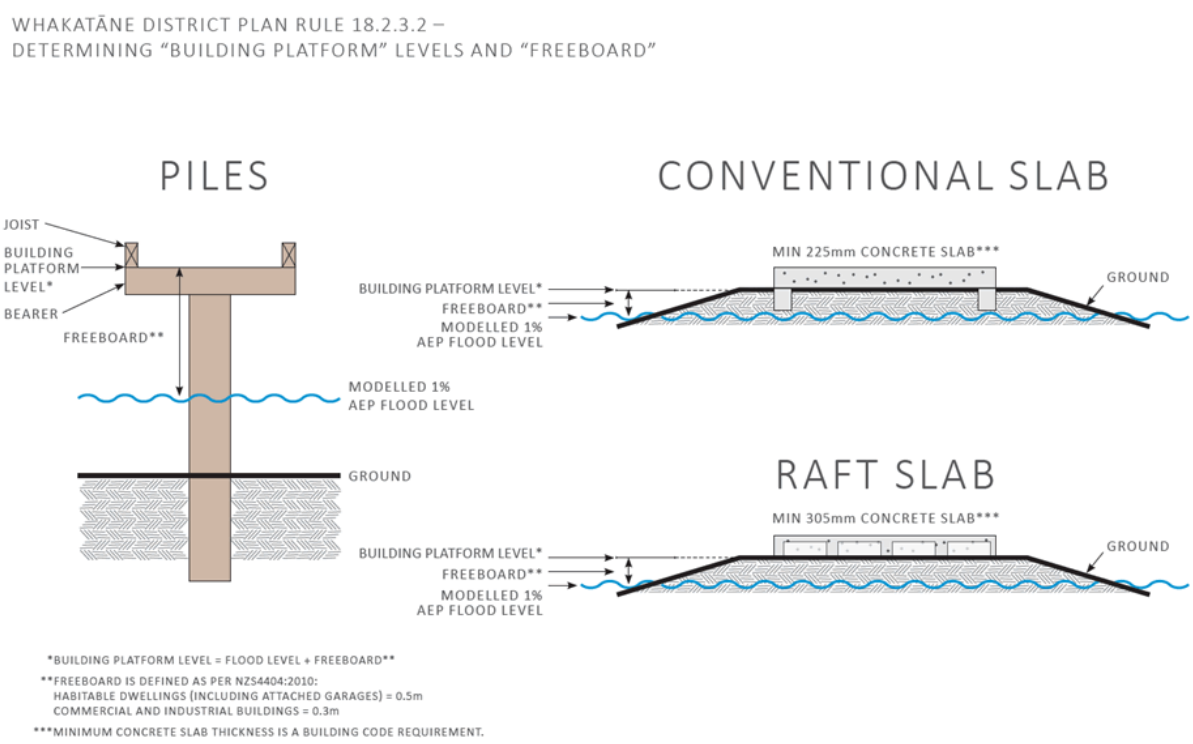

Figure 34: Advice from the Council on interpreting District Plan Rule 18.2.3.2 - Determining Building Platform Levels and Freeboard

In addition to this, the Council provides an online service where residents within the Whakatāne Urban Stormwater Catchment area can request a modelled 1% AEP flood level for their site.[18]

Summary

The stormwater network is largely meeting its 'level of service' design. Via the reports presented, areas have been identified where improvements can be made to further mitigate flooding effects.

Properties susceptible to flooding are being identified, with the LIM reports amended to acknowledge the hazard potential for the property. The building floor level determination (new buildings) has been reviewed and determined as appropriate; combined with the level of service for new developments, this will act to ensure suitable flood mitigation for newly developed properties during a 1% AEP.

The continued operation of the urban stormwater network ensures that any significant adverse effects from flooding within the urban areas are largely avoided, and that management and future upgrades of the system seek to ensure flooding effects are further remedied and/mitigated.

7.3 Erosion

The effects of erosion and scour are an increase of sedimentation within the receiving water/s, and potentially an increased risk of damage to land/property around the site due to land being undermined.

The land gradient of the stormwater network is shown in **Figure 24**. The upper catchments have potential for creating erosion, due to the pipe/bed gradients transporting stormwater down the slopes.

[18] https://www.whakatane.govt.nz/flood-level-report

Previous events have caused significant in-stream erosion within the lower reaches of the Wainui Te Whara Stream. The Wairere and Waiewe streams are modified such that significant in-stream erosion events are rare.

Inlets and outlets of culverts, pipes, flap gates and pump station outlets are potential locations of erosion, and usually have purpose designed structures installed around them. These are typically constructed of either concrete or rip-rap to dissipate energy and minimise bed erosion.

Within stream and/or river beds, these structures require consent and subsequently are designed and maintained to specified engineering standards. These design standards seek to ensure placement and size of structure/s is suitable to allow passage of the required water volumes, but also to avoid erosion of the stream bed/banks. At times, above design events result in damage to, or around, these structures and maintenance is required to re-stabilise them. An example of this would be erosion around an outlet pipe within the flood channel of the Whakatāne River following a flood event. Scouring around the existing aprons or rip-rap may require maintenance.

The CMP will include future programmed repairs and maintenance for structures within the network, in addition to non-forecasted maintenance works.

Summary

This application seeks authority for all existing structures within the stormwater network, associated discharges and any effects associated with their existence. All structures were designed, sized and installed according to the stipulated engineering standards of the time and are continuously maintained.

The management of the network via the CMP seeks to ensure all existing structures are managed and maintained so any adverse effects associated with erosion are avoided where practicable and, where necessary, suitably remedied and/mitigated to prevent further damage to bed/bank of any river and the adverse effects associated with sedimentation.

7.4 Discharges to water

7.4.1 Water quality

The results of in-stream monitoring of the identified receiving water bodies have been provided in:

i. Appendix 8 – WSP Report (p. 8-3)
ii. Appendix 2 – Hamill Report (p. 13-26).

As stated in section 4.3 of the Hamill Report:

"Stormwater runoff from residential developments can contain a wide range of contaminants, but those of particular concern in residential stormwater include sediments, metals (especially copper (Cu) and zinc (Zn) from building materials and traffic) faecal bacteria and the nutrients nitrogen and phosphorus".

The Hamill Report discusses metals, hydrocarbons, microbial populations, nutrients and sediment as constituents within the stormwater network and their impact on water quality.

The sources of stormwater and the likely inputs and effects on water quality are discussed in part 4.3.3, which investigates 'typical urban stormwater quality' through existing literature relevant to New Zealand environments. The monitoring results from several locations obtained from existing resource consent monitoring and several other monitoring projects are summarised and used to determine the likely effects of the Whakatāne township stormwater on the water quality in receiving waters. Table 4.7. of the Hamill Report shows the likely magnitude of effects of stormwater from the Whakatāne township on the water quality of receiving water bodies.

Waterway	Water Quality	Reason
Whakatāne River	Low	SW a very small fraction of catchment (<1%). Metals in fine sediment within DGVs and similar u/s and d/s of town. Possible small scale localised effects at outlets.
Wairere Stream	Negligible	SW a very small fraction of catchment. Metals in sediment low and within DGVs.
Waiewe Stream	Low	Zn slightly elevated in sediment but still within DGVs. SW a small fraction of overall catchment.
Apanui cannal	High	Urban catchment. Sediments have elevated Cu, Zn and Pb above DGVs. Metals and *E.coli* in water elevated during rain events. Low DO. Oily film can be present on water after rain. Litter.
Hinemoa Stream	Moderate - High	Urban catchment. Indication of elevated Zn and *E.coli* in water at baseflow. Uncertainty with no sediment sampling or rain-event sampling. High nitrate.
Amber Grove drains	High	Urban catchment. Sediments have elevated Zn above DGV. Zn and *E.coli* in water elevated during rain events (likely from animals)
Wainui Te Whara Stream u/s Valley Road	Low	Macroinvertebrate scores are generally good. Dissolved Cu and Zn increase down Gorge Road but still low. TN and TP above DGVs but TP likely naturally elevated.
Wainui Te Whara Stream d/s Valley Road	Moderate	Macroinvertebrate scores decline to poor downstream. Zn and Cu elevated d/s but within DGV. DGT sampling found dissloved Zn elevated above DGVs at King Street.
Awatapu Lagoon	Moderate	Very high nutrient status. Low metal concentration in outlet water. Concentration of TN similar to WTW inflow but TP is higher, suggesting internal load or a SW source. Historical sewage leaks. N & P may be elevated in inflows (based on URQIS) but not confirmed. Litter in lagoon.
Sullivan Lake	Moderate	Very high nutrient status. Elevated Zn in sediment and inflows. Inflows also elevated in *E.coli* . Historical sewage leaks. N & P may be elevated in inflows (based on URQIS) but not confirmed. Fine sediment observed in inflows.
Orini Canal	Negligible - Low	Urban SW a small fraction of catchment. Low concentration of Zn, Cu, Pb and dioxins in SW. Very low nitrogen in SW.
Kopeopeo Canal	Low	Urban SW a small fraction of catchment. Indication of elevated Zn in stormwater from Gateway Drive.

Figure 35: Table 4.7 Hamill Report

Drawing on previous monitoring, the Hamill Report concludes the overall effects on stormwater quality and potential mitigations are:

"The analysis found that most of the stormwater discharges currently have "Low" or "Very Low" overall effects because of either the small amount of stormwater input to the waterway, or the currently poor ecological values of the waterway, or both. The lower Wainui Te Whara Stream and Awatapu Lagoon had overall "moderate" ecological effects. The overall effects on Sullivan Lake might also be considered "moderate" if the amenity values of the lagoon are weighted.

The assessment is for the current effects of stormwater and does not account for mitigations that may occur as part of the Catchment Management Plan. There are many mitigation actions that can be undertaken to reduce the effects of the stormwater network on waterways. Some of these could change the effects of the stormwater network management from a negative to a positive. Fundamental to ensuring improved water quality and ecological outcomes is to include the enhancement of ecological values as a high-level objective of the stormwater network alongside conveyance of water".

The monitoring data set has been determined as small and the list of variables monitored incomplete, subsequently additional monitoring is proposed to improve the certainty of any conclusions drawn. These additional variables have been included in the draft SMP included as Appendix **3**.

Figure 36 (Table 4.9 of the Hamill Report) includes a column of possible mitigations that relate to existing adverse effects. These mitigations address water quality and ecological health effects.

Table 4.7 summarises effects from stormwater discharges on the receiving environments. It notes that generally water bodies within the low land urban network have low quality water, with the combined discharges (including stormwater) having minimal impact on the Whakatāne River water quality.

The draft SMP sets out a proposed monitoring programme, specifying sites for ongoing monitoring, timing, frequency, methods, and variables for the sampling.. It is envisaged that the draft SMP will be updated following the CSC being granted to include the relevant limits and requirements. Trigger values, recommended responses to these values being exceeded, and reporting requirements are set out in section 3 of the draft SMP.

It is envisaged that once formalised, i.e. post consent, the SMP will work in conjunction with the CMP to set out resultant actions pending any trigger value breaches. The CMP in conjunction with the Council's other instruments will provide several options, ranging from operational management changes as the asset owner, through to implementation of bylaw requirements/enforcement to address any issues identified via sampling.

Managing the urban stormwater network as set out in the CMP and adopting the sampling/monitoring methods relative to the proposed targets/limits as set out in the draft SMP, along with the proposed actions and mitigations, will ensure adverse effects upon the receiving water bodies are largely avoided, and if not, then suitably remedied or mitigated.

7.4.2 Ecology

Results of in-stream monitoring of identified receiving water bodies have been collated and provided in:

i. Appendix 8 – WSP Report
ii. Appendix 2 – Hamill Report.

In addition to water quality, the ecological health of the water bodies within the urban network that receive stormwater is also discussed within both the WSP Report and the Hamill Report.

The development of the Whakatāne township has had an impact on pre-existing water bodies within the catchment and their ecological values. The town's development required the creation of new channels/drains and the modification of existing water courses. Water courses facilitate the passage of stormwater through the catchment with minimal impact on land or property. Water courses also commonly have numerous structures in them, such as culverts and erosion protection structures, and generally have flap gates at their exit through the stopbanks (as previously discussed).

An assessment of the ecological values of the various water bodies receiving water from the Whakatāne township is provided within Table 3.8 of the Hamill Report.

Waterway	Ecological value	Reason for ecological value
Whakatāne River	High	Important habitat for At-risk fish species (inanga), shellfish gathering, recreation and swimming. Wetland fragments near Awatapu Lagoon and salt marsh wetland near McAlister Street.
Wairere Stream	High	High quality habitat, macroinvertebrate community likely 'good', longfin eel upstream of waterfall.
Waiewe Stream	Moderate-Low	Moderate quality habitat, highly modified, largely urban catchment, waterfall and culverts a substantial fish barrier. A constructed wetland in the Waiewe Street reserve and Puru wetland near the McAlister Street.
Apanui cannal	Low	Poor habitat, low MCI, poor WQ, no At-Risk fish
Hinemoa Stream	Low	Poor habitat, low MCI, poor WQ, no At-Risk fish. Good riparian shade at d/s section.
Amber Grove drains	Negligible	Poor habitat, poor WQ, no fish passage. Not a natural waterway but has restoration potential.
Wainui Te Whara Stream u/s Valley Road	High	Highly modified lower catchment but good macroinvertebrate community and At-risk fish species common.
Wainui Te Whara Stream d/s Valley Road	Moderate	Poor quality riparian zone, "fair" quality macroinvertebrate community, At-risk fish species present but limited habitat. Passage to high quality habitat u/s. Deteriorating trend in MCI values.
Awatapu Lagoon	Moderate	Poor WQ, limited riparian habitat, migration route for At-Risk fish. NZ dabchick breeding on the lagoon.
Sullivan Lake	Low*	Poor WQ, poor aquatic habitat, urbanised margins. Shortfin eel present but no At-Risk fish. Poor fish passage to the Whakatāne River.
Orini Canal	Moderate	Past contamination, poor WQ, poor riparian and instream habitat. Shortfin eel present, likely has smilar fish as the lower Whakatāne River. High quality salt marsh habitat in the lower sections.
Kopeopeo Canal	Low	Past contamination, poor WQ, poor riparian and instream habitat. Shortfin eel present. Salt marsh adjacent to lower section of canal.

Figure 36: Summary of overall ecological values for waterways receiving stormwater from the Whakatāne township (Table 3.8 Hamill Report)

Table 4.9 of the Hamill Report provides a summary of overall ecological effects of current stormwater on waterways in Whakatāne township, and potential mitigation actions to reduce these effects. The key elements to this table are the '*Overall effect*' determination for each water body. Potential mitigations are proposed to help remedy or mitigate the adverse effects on ecological values resulting from stormwater discharges to the water body.

Waterway	Ecological value	Magnitude of effect	Overall Effect	Potential mitigation
Whakatāne River	High	Low	Low	Control use of copper and anti-fowling products in boat ramp and future marina areas.
Wairere Stream	High	Low	Low	
Waiewe Stream	Moderate-Low	Low	Low	
Apanui cannal	Low	High	Low	Riparian restoraton for shading and habitat. FFG was installed in 2017.
Hinemoa Stream	Low	High	Low	Install a FFG. Riparian /wetland planting between James St and Hinemoa St.
Amber Grove drains	Negligible	High	Very Low	Riparian wetland planting on one side of drains for shade and habitat. Fence stock away from drains.
Wainui Te Whara Stream u/s Valley Road	High	Low	Low	
Wainui Te Whara Stream d/s Valley Road	Moderate	Moderate	Moderate	Riparian and instream restoration d/s King Street. Allow plants in the stream. Change mgt. to avoid spray near stream edge.
Awatapu Lagoon	Moderate	Moderate	Moderate	Create wetlands for WQ treatment and wildlife. Regular weed harvesting of south and central lagoon to improve habitat, oxygen conditions and remove nutrients. Azolla harvesting to remove nutrients. Improve litter management e.g. litter traps.
Sullivan Lake	Low*	Moderate	Low*	Create banded wetlands for treatment near southern end of lake. Ensure sections of lake retain aquatic plants. Focus SW mgt on Te Tahi Steet industrial area. Investigate sediment inputs. Encourage low fertiliser use in catchment. Improve fish passage at outlet weir and install a FFG at Whakatane River outlet.
Orini Canal	Moderate	Low	Low	
Kopeopeo Canal	Low	Low	Very Low	Potential for riparian restoration

* = The amenity values of Sullivan Lake are likely 'Moderate', and would improve with better water quality.

Figure 37: Summary of ecological effects of stormwater on waterways in and potential mitigations (Table 4.9 Hamill Report)

The Hamill Report uses the Ecological Impact Assessment framework to assess the values of waterways receiving stormwater from the Whakatāne township and the potential effects of the stormwater on these waterways. The effects considered relate to hydrology, temperature, water quality and effects arising from operation and maintenance activities.

The Hamill Report found *"…that most of the stormwater discharges currently have "Low" or "Very Low" overall effects because of either the small amount of stormwater input to the waterway, or the currently poor ecological values of the waterway, or both. The lower Wainui Te Whara Stream and Awatapu Lagoon had overall "moderate" ecological effects. The overall effects on Sullivan Lake might also be considered "moderate" if the amenity values of the lagoon are weighted".*

This conclusion on overall effects does not consider the potential gains from the proposed mitigations. By adopting these actions as appropriate into the CMP, the Council will further mitigate effects from stormwater within the water body.

Summary – Discharges to Water

Considering the Hamill Report, the actions proposed within the CMP and monitoring as proposed in the draft SMP should ensure any adverse effects on water quality and ecological values within the receiving water bodies resulting from the continued discharge of stormwater from the existing network as proposed should be suitably avoided and/or mitigated.

7.5 Amenity/landscape/character

This consent application is to consent structures previously built under various authorities and the associated stormwater discharges. This application does not seek to further alter the physical environment associated with the stormwater network or its components.

Stormwater network structures located within the CMA, in accordance with Rules SO 7 and SO 9 of the RCEP, are now part of the existing environment and no longer require authorisation via individual consents, pending compliance with the permitted standards. Any effects on the amenity, character or landscape associated with the use and maintenance of the structures have already been considered, and do not need further authorisation.

The RPS identifies Kōhi Point and Piripai Dunes and Spit as being areas of “very high” and “high” natural character (respectively), as referred to in the RMA and described in the NZCPS 2010 (Policy 13). Appendix J of the RPS provides a description of the attributes and elements that contribute to the natural character of the identified environments.

Figure 38: Identified areas of natural character in the RPS

				Attributes (with elements that enhance and diminish natural character)				
Name	**Level of natural character**	**General description of area**	**Elements that describe natural character**	**Water**	**Land cover and land use**	**Terrestrial biotic**	**Abiotic systems and landform**	**Perceptual**
Piripai Dunes and Spit (PI) Maps 26, 27	High	Large dune systems that remain largely unmodified with natural patterns and native vegetation that dominates the areas. The spit forms part of the Whakatāne River mouth with modification to the distal end with flood training walls. Rural and residential subdivision along this coast has significant modified this natural feature with a small front dune system remaining along its edge. Grazing of some areas still continues.	1 Natural dune landform comprising frontal, secondary and tertiary dune profiles. 2 Native coastal and dune species dominating the area. 3 Natural dune patterns remnant of the interface of the natural river and coastal water processes. 4 Estuarine margins of the Whakatāne River.	1 Highly dynamic coastal processes occurring along the river and coastal margins. 2 The intertidal processes are significant. 3 Modification to the distal end has occurred to manage erosion of the spit.	1 The frontal dune system and river margins remain largely intact with native vegetation cover. 2 The area has some modification from historical burials and farming practices. 3 Access tracks are found through the site for vehicles and pedestrians.	1 Indigenous vegetation consists of native coastal dune species, with some infestation of weed species. 2 The river margins comprise native estuarine species with some weed infestation along the margins of the feature.	1 The natural processes are dominant in this area with the flood plain for the river forming a large part of the river margins. The landform depicts the dynamic natural processes that continue to dominate this coastline.	1 Whakatāne CBD overlooks this area and views a natural coastal dune system with some degradation of the land cover. 2 The dynamic processes are represented in the natural landform and the intertidal processes.
Kōhī Point (Ko) Map 27	Very High	Kōhī Point is a dominant landscape feature with native vegetation cover. It demonstrates high levels of natural character through the lack of modification. The pohutukawa clad escarpment behind creates a natural backdrop and is a remnant of the unmodified environment that once occurred along this section of the coast.	1 Unmodified rocky coastline. 2 Remnant and regenerating native bush. 3 Vegetation extending to the coastal edge. 4 Remote and isolated with pedestrian access only. 5 Dynamic coastal processes occurring.	1 Unmodified coastal edge with no structures or moorings.	1 Mixture of regenerating native coastal bush and remnant pohutukawa coastal bush. 2 Unmodified with a steep rocky coastline which extends eastward towards Ōhope Beach. 3 Modification is limited to the walking tracks that access through the reserve.	1 The mature and regenerating native bush has regional and national significance and provides a habitat for uncommon and threatened indigenous plants.	1 Excellent example of natural processes with no modifications to the coastal processes. 2 Modification extends to only the access tracks.	1 Very low levels of activities, with few boats, very few people (pedestrian only) and no settlement. 2 High level of remoteness and isolation for the entire edge.

Figure 39: Excerpt from Appendix J of the RPS

The distal end of the Piripai Spit, east of Piripai and Coastlands, is described in the RCEP as a significant component of the view from Whakatāne. The river mouth is a striking feature of the landscape and creates a memorable outlook from Whakatāne, set against the backdrop of Kōhi Point. Viewed from Whakatāne CBD the distal spit and estuarine margins and river mouth are an important component of the natural aesthetic outlook. The existing landscape comprises strong natural dune patterns coupled with native vegetation cover. The combination of the spit, landform, the active and at times treacherous river mouth, along with the delta of the river mouth is highly aesthetic and displays an intact natural system.

Aside from hard structures, the stormwater network uses several water bodies to detain and convey stormwater. These water bodies exist in a variety of states from an open channel, through to landscaped wetlands. The Council manages these water bodies to maintain their aesthetic values by controlling litter, weeds/invasive species, grass verges, water flow, erosion, sediment build up and, where appropriate, re-vegetation.

The management of water bodies within the urban network is addressed in the CMP and is one of the management tools used to maintain/improve the urban landscape and maintain the efficacy of the stormwater system.

Summary

The urban landscape contains the structures and discharges that this application seeks consent for. Any adverse effects on amenity within the surrounding environment as a result of physical disturbance or works have already occurred during the development of the stormwater network; no further disturbance or works other than maintenance and/or repair is requested.

The Council's management of the stormwater network seeks to ensure it continues to operate to its optimum efficiency whilst maintaining and, where possible, improving the character and visual appearance of the network through programmed maintenance and improvement, avoiding adverse effects on the town's amenity.

7.6 Natural hazards

Whakatāne Township, and the wider Whakatāne District, is subject to various natural hazards. The known hazards relevant to the township include flooding, earthquakes, tsunamis, and landslips.

Flood protection associated with the Whakatāne River has been discussed previously.

The Council has undertaken investigations of the escarpment in Whakatāne, and the potential landslip risks associated with this, and land below. There are parts of the stormwater network within the identified risk areas, as shown on the Council's dedicated Landslide Risk Assessment Mapping service.

Coupled with an event (either earthquake or landslide), there may be compromises to the protective infrastructure. Such scenarios are hard to predict and, should they occur, will be managed through the either 'business as usual' methods, or under the Civil Defence and Emergency Management framework.

In addition to this, the land that Whakatāne has been developed on consists of alluvial plains which were naturally subject to flooding and with rivers and streams naturally changing course over time. This has

resulted in varying degrees of soil strength and qualities. Over time, development has occurred adjacent to streams, constraining the waterways and reduced their ability to overtop.

Some areas within the township are low lying relative to sea level. With climate change, projected sea level and potentially groundwater rise, there may be implications for future planning decisions that will need to be made.

Risks to the town include coastal inundation, tsunami, and stopbank overtopping. The township also has areas, particularly around the escarpments, that are susceptible to rock topple or landslide events.

Summary

While a relevant task for the Council, the consideration of natural hazards is not necessarily relevant to this consent application. However, it does influence the design and management of the stormwater network given the risks the infrastructure is potentially exposed to.

7.7 Positive effects

Stormwater management within an urban environment is an essential and fundamental public service, necessary to the protection of land, homes, persons, and infrastructure. Within the Whakatāne Urban Stormwater Network, the existing stormwater infrastructure and the flood protection scheme work collectively to provide significant protection to those within the catchment.

The CSC allows for one entity to be responsible for all stormwater collected, conveyed, and discharged from the urban catchment, preventing the proliferation of numerous individual discharges from industrial, commercial, and private sites. One entity holding the consent reduces the time and cost from the authority monitoring separate discharges and their various effects.

7.8 Summary

The Council has provided several technical reports with this application that have identified and assessed the relevant environmental effects associated with the operation of the stormwater network.

The Whakatāne Urban Stormwater Network has been developed over a number of years to facilitate the town's development. The nature and scale of any resultant effects are well understood and are addressed within the management and monitoring approach proffered within the CMP.

Any adverse effects occurring as a result of the operation of the stormwater network and its various discharges as proposed are either minor, or will be suitably avoided, remedied, or mitigated through the implementation of the proposed consent conditions, the CMP, and its associated documents.

8 Monitoring and mitigation

8.1 Key issues

The Council manages the stormwater network by addressing the issues from two key aspects:

i. Conveyance, which covers all aspects of collecting stormwater and safely conveying it to a discharge point such that desired levels of service for surface ponding and protection of property from inundation are met. The capacity of stormwater infrastructure including pipes, drains and outfalls is covered under conveyance; and
ii. Water quality, which covers all the issues of contaminants that are present in urban stormwater, and which can adversely affect the quality of water and the ecology of receiving waters.

The management approach submitted within the CMP intends to use the supporting technical documents (of the CMP) to guide the Council's maintenance, monitoring, and responses to address these two aspects and in turn, where possible, avoid adverse effects or remedy or mitigate them.

It is anticipated that a requirement of consent being granted is that the Council implement and update the CMP. This includes the targets/limits, monitoring, and actions stated within the CMP.

8.2 Proposed mitigations

A range of approaches can be (and are) used to minimise contaminant loads in stormwater and corresponding potential for adverse effects in receiving waters. These approaches include infrastructure, operational, pollution prevention and educational/community engagement.

8.2.1 Infrastructure

- Vegetated swales and regular swale cleaning
- Rain-gardens (for new intensive urban developments)
- On site soakage and attenuation
- Ponding and retention areas
- Stormwater treatment devices, such as sump baskets, gross pollutant (litter) traps, oil interceptors and sand filters.

8.2.2 Operational management

- Street cleaning programmes
- Sump and cesspit cleaning
- Litter pick up and screening
- Vegetation control (macrophytes in waterways and bankside)
- Provide clean water flushing flows to lakes/ponds in dry weather
- Procedures for spill response and clean up.

8.2.3 Pollution Prevention Plans

- Combined Waters Bylaw 2017 to control potential contaminants at source from sites disposing of trade wastes
- Community awareness education programmes on preventing contamination of stormwater. Educating the public to not wash contaminants directly into the stormwater system (e.g. wash cars on grass) can also play an important role. As an example, during the fish netting of Waiewe Stream, discharge from a stormwater pipe was observed turning the whole stream a turbid grey. It was traced back to a person hosing the surface of a newly laid concrete driveway onto the street.

8.3 Future development

This application is to authorise existing structures associated with the stormwater network as identified, and it seeks to authorise future infill within the existing built urban environment (i.e. brownfields development). It does not seek authorisation for future greenfield developments. Through the CMP and supporting documents, the Council envisages the following process to authorise stormwater discharges from future:

A) Brownfield developments:

- Infill development will be covered by the CSC, the Council will manage individual sites through the Combined Waters Bylaw and PPP requirements (as previously discussed).

B) Greenfield land developments:

- Greenfield developments relate to areas currently outside of the spatial boundaries of the Whakatāne Urban Stormwater Network as defined in the CMP
- Persons responsible for development/s are responsible for obtaining their own land use and/or subdivision consent from the Council, and discharge consent and any other consents associated with placement/use of structures in the river/stream from BOPRC.
- When considering the resource consent application, BOPRC consider the proposed designs and the appropriateness of the designs in respect any design specifications included in the Council's CSC consent conditions or the CMP.
- BOPRC seeks approval of the Council as an affected person (under section 95E RMA) as to the suitability of the proposed discharges and designs and the intent of the Council to inherit the completed network and infrastructure upon its completion.
- Upon completion of construction, stabilisation and any rehabilitation required by consent conditions, the consent holder can apply to the Council to transfer the resource consents. If accepted, the assets will be vested to the Council, which will then become the asset owner and responsible for any discharges, use and maintenance of structures authorised.
- The Council will amend the relevant plan/s within the CMP to incorporate the developed area and its stormwater assets, then re-submit the CMP to BOPRC to certify. These plans will include both infrastructure and geographical area.
- The original BOPRC resource consent for the development's stormwater network will then be surrendered, with the developed area and its stormwater assets managed under the Council's CMP.

9 Statutory framework and assessment

9.1 TA functions, duties and responsibilities

As discussed in section 1.2, under the LGA 2002, TAs are required to periodically assess drinking water, wastewater and sanitary services. There is no statutory requirement for TAs to provide public stormwater drainage works but in practice the service is provided as a 'public good'. All discharge activities relating to stormwater drainage are subject to the provisions of the RMA and the relevant regional policy and planning instruments.

9.2 Information requirements

The information required to support any consent application is stipulated in the following provisions:

- Section 88 of the RMA
- Schedule 4 of the RMA
- BOPRC information requirements as stipulated in the rules, policies, methods and consent application documents.

Technical information relevant to the proposed activities and their associated effects is provided in sections 3, 4, and 7 of this application.

9.3 Resource consent requirements and activity status

This section sets out the required resource consents as well as the activities that are permitted.

9.3.1 Resource consents required

Resource consent is sought to authorise the discharges and existing associated structures under the following provisions of the RMA:

- Section 12 (restrictions on use of the coastal marine area) – 12(1)(b), 12(1)(d) and 12(2)(a); to occupy space and to maintain the stormwater structures within the Coastal Marine Area (CMA).
- Section 13 (use of structures in, on, under or over beds of lakes or rivers) – 13(1)(a), 13(1)(b) and 13(1)(d): To use, reconstruct, place, alter, extend, remove or demolish any existing structure associated with the stormwater network; to excavate, drill, tunnel or disturb the bed in order to repair/replace or maintain any part of the stormwater network; and to deposit any substance on in or under the bed to repair or replace any part of the network.
- Section 14 (restrictions relating to water) – 14(2)(a): to dam or divert stormwater/surface runoff.
- Section 15 (discharges of contaminants into environment) – 15(1)(a), 15(1)(b) and 15(1)(d): to discharge stormwater/contaminants to water and/ land in circumstances which may result in that contaminant entering water, including into the CMA.

Table 3: Resource consents required under the NES-F

Regulation	Status	Activity
54(c)	Non-complying	Taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland.

Table 4: Resource consents required under the RCEP

Rule	Status	Activity
Rule CD 7	Restricted Discretionary	Discharge of stormwater to coastal water
Rule CD 9	Discretionary	Discharges to the Coastal Marine Area
Rule SO 12	Discretionary	Structures, occupation and use in the coastal marine area in Indigenous Biological Diversity Area A or an Area of Outstanding Natural Character
Rule SO 13	Discretionary	Structures, occupation and use in the coastal marine area

Table 5: Resource consents required under the RNRP

Rule	Status	Activity
DW R8 (Rule 37)	Discretionary	Discharge of contaminated stormwater to land and water
DW R21 (Rule 30A)	Restricted Discretionary	Discharge of stormwater to surface water
DW R23 (Rule 31A)	Restricted Discretionary	Discharge of stormwater to land soakage
DW R25 (Rule 35)	Restricted Discretionary	Remediation or disturbance of contaminated land
BW R36 (Rule 71)	Discretionary	Activity in the Beds of Streams, Rivers and Lakes
WQ R21 (Rule 48)	Discretionary	Damming or Diversion of Water

Through this application, the Council is seeking consent for a number of individual structures and discharge points previously consented. Given the comprehensive nature of this application, it is anticipated that the application will be considered as a Discretionary activity under the RCEP and RNRP.

9.3.2 Permitted activities

This section summarises the activities that are permitted under the RCEP, NES-CS, and NES-F.

Table 6: Activities that are permitted under the RCEP

Rule	Activity
Rule SO 7	Use of existing lawfully authorised structures The use of any lawfully authorised structure in the CMA[19] where the structure and use existed on the date on which this rule becomes operative is a permitted activity.
Rule SO 9	Maintenance of structures in Indigenous Biological Diversity Area ("**IBDA**") A in the CMA
Rule HD 1	Maintenance, minor alteration, repair, or reconstruction of any lawful structure within the Harbour Development Zone

Table 7: Activities that are permitted under the NES-CS

Regulation	Activity
Regulation 8(3)	Disturbing the soil of the piece of land is a permitted activity while the following requirements are met: (a) controls to minimise the exposure of humans to mobilised contaminants must— (i) be in place when the activity begins: (ii) be effective while the activity is done: (iii) be effective until the soil is reinstated to an erosion-resistant state: (b) the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done: (c) the volume of the disturbance of the soil of the piece of land must be no more than 25 m^3 per 500 m^2: (d) soil must not be taken away in the course of the activity, except that,— (i) for the purpose of laboratory analysis, any amount of soil may be taken away as samples: (ii) for all other purposes combined, a maximum of 5 m^3 per 500 m^2 of soil may be taken away per year: (e) soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind: (f) the duration of the activity must be no longer than 2 months: (g) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.

Land disturbance will be in accordance with permitted standards identified in Regulation 8 of the NES-CS or an appropriate consent will be sought from the consenting authority when required. The Council is the

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[19] The RMA defines the Coastal Marine Area (CMA) as meaning the foreshore, seabed, and coastal water, and the air space above the water—

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

consenting authority for land use resource consents made under the NES-CS. Works on contaminated sites will follow the procedure set out in section 2.4.5.3.

Table 8: Activities that are permitted under the NES-F

Regulation	Activity
Regulation 46	(1) Vegetation clearance within, or within a 10 m setback from, a natural wetland[20] is a permitted activity if it— (a) is for the purpose of maintaining or operating specified infrastructure[21] or other infrastructure; and (b) complies with the conditions. (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it— (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and (b) complies with the conditions. (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a permitted activity if it— (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and (b) complies with the conditions.

9.4 Section 104 assessment

9.4.1 Actual and potential effects

Section 104(1)(a) and clause 2(3) of Schedule 4 of the RMA require an assessment of the activity's effects on the environment. The detail of this should correspond with the scale and significance of the effects that the activity may have on the environment.

[20] *The NES-F defines **natural wetland** means a wetland (as defined in the Act) that is not:*
- *(a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or*
- *(b) a geothermal wetland; or*
- *(c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling (NPS-FM 2020)*

[21] *The NES-F and NPS-FM defines **specified infrastructure** to mean any of the following:*
- *(a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002)*
- *(b) regionally significant infrastructure identified as such in a regional policy statement or regional plan*
- *(c) any public flood control, flood protection, or drainage works carried out:*
  - *(i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or*
  - *(ii) for the purpose of drainage by drainage districts under the Land Drainage Act 1908.*

This assessment includes, where relevant, information as required under clause 6 and matters as required under clause 7 of Schedule 4. An assessment of the effects associated with the activities (discharge of stormwater, occupation of space and use of structures) has been provided.

In summary, the buildings, infrastructure, and uses associated with this consent application are either existing under existing use rights provided by section 10 of the RMA, pre-RMA consented activities, or consented activities under the RMA, or seeking a replacement of consent(s) under section 124 of the RMA. Granting this consent will authorise the ongoing placement/use of this infrastructure, putting in place an adaptive management framework to provide for a clearly structured maintenance programme and the ability to improve environmental outcomes and performance.

9.4.2 National environmental standards

An assessment of the proposed activities and their associated effects against the relevant provisions of the NESs identified in section 2.4.5 is provided below.

9.4.2.1 NES-DW

Regulation 12 of the NES-DW has the potential to be relevant to this application. Other than the Council's own intake from the Whakatāne River, there are no known registered drinking water supplies providing greater than 25 persons with drinking water for at least 60 calendar days in any given year located downstream from the discharge points where the CSC is applying for.

As previously identified in **Figure 19**, the Council's abstraction from the Whakatāne River occurs at the southern end of town, during low flow events within the river, tidal influences can have an impact on water quality within this stretch of the river.

Given the Council is also the owner and operator of the drinking water supply and is committed to maintaining public health standards, the risk of cross contamination is low to negligible. The relatively short duration of any low flow event, and the existing operational practices during these events, mitigate any risk of contamination. All water abstracted from the river is treated and monitored at the water treatment plant before being supplied to the town's reticulated network, further avoiding the potential for contamination of drinking water.

The Council is not opposed to inclusion of the notification consent condition as identified by the NES-DW.

9.4.2.2 NES-ET

As per section 2.4.5.2 of this application, authority of the proposed activity under the NES-ET is not required. It is acknowledged that permitted activity limits are set within the NES-ET. There is potential for these activities to be undertaken within the Whakatāne stormwater network, and the Council will need manage their network accordingly.

It is not envisaged that any activities undertaken within the Whakatāne stormwater network under the NES-ET will give rise to any adverse effects, assuming all works comply with the permitted activity clauses and comply with any earthworks standards prescribed by the TA and the NES-ET.

9.4.2.3 NES-CS

The NES-CS are regulations which provide a national environmental standard for activities on pieces of land whose soil may be contaminated in such a way as to be a risk to human health. The enforcement of NES-CS requirements sits with the Council as a territorial authority rather than with BOPRC. As detailed in section 2.4.5.3, through ongoing maintenance and upgrades, disturbance of contaminated land is likely and will need to comply with the permitted activity rules. Any disturbances will be managed under the CMP. An assessment of how any disturbance of contaminated land will comply with the NES-CS is given below.

There are various "pieces of land" that are considered to be land covered by Regulation 5(7-8), with known or identified sites shown in Figure 22. No new activity or change of land use is being proposed.

In addition to the NES requirements, in order to satisfy the RNRP requirements a methodology is proposed to determine contamination prior to works. This is discussed further in section 2.4.5.3.

The following assessment of the NES-CS is provided in support of the application to potentially disturb contaminated land under the RNRP.

Table 9: Relevant parts of the NES-CS

Relevant regulation/s	Assessment
Activities *Regulation 5 (2) – Fuel Storage System*	The proposed activities as sought under the CSC do not seek to disturb or remove a fuel storage system.
Regulation 5(3) – Sampling the Soil *An activity is sampling the soil of the piece of land, which means sampling it to determine whether or not it is contaminated and, if it is, the amount and kind of contamination.*	To undertake maintenance and/or repair work in recorded (HAIL) locations, soil sampling to complete a DSI will be required if sufficient information is not already held.
Regulation 5(4)(a) *An activity is disturbing the soil of the piece of land, which—* *(a)means disturbing the soil of the piece of land for a particular purpose:*	In order to undertake maintenance/repairs, work within a recorded site (land) may be required. If a DSI for the site does not exist, one will need to be completed prior to any disturbance occurring. Any land disturbance will comply with the limits prescribed within this NES.
Land Covered *Regulation 5(7) (a), (b) &(c)* *The piece of land is a piece of land that is described by 1 of the following:* *(a) an activity or industry described in the HAIL is being undertaken on it:* *(b) an activity or industry described in the HAIL has been undertaken on it:* *(c) it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.*	As discussed in section 2.4.5.3 of this application, a number of sites considered to be a "piece of land" as per Regulation 5(7) exist within the stormwater catchment, with various sites containing structures, pipes or channels belonging to the stormwater network. Figure 21 of this application depicts these recorded locations.

Relevant regulation/s	Assessment
Methods *Regulation 6 (1)-(4)*	The Council, as the TA, has access to information in relation to known sites. In addition, BOPRC administers the HAIL registry for the Bay of Plenty region. If sufficient information on an individual site/area is not known, the Council will undertake a DSI on any site to be disturbed before works commence.
Permitted Activities *Regulation 8(2)* *Sampling the soil of the piece of land is a permitted activity while the following requirements are met:* *(a) controls to minimise the exposure of humans to mobilised contaminants must—* *(i) be in place when the activity begins:* *(ii) be effective while the activity is done:* *(iii) be effective until the soil is reinstated to an erosion-resistant state:* *(b) the soil must be reinstated to an erosion-resistant state within 1 month after the end of the course of sampling for which the activity was done:* *(c) soil must not be taken away in the course of the activity except as samples taken for the purpose of laboratory analysis:* *(d) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.*	Prior to undertaking any land disturbance (on a potentially contaminated site) under the CSC, if sufficient information is not already held, the Council will undertake soil sampling in order to complete a DSI. Any sampling will be undertaken in accordance with Regulation 8(2) (a)-(d). Programmed maintenance of the stormwater network and any associated disturbance of a "piece of land" (as per the NES-CS) will be submitted to BOPRC in the CMP prior to any works commencing. A DSI will be required in order to satisfy requirements associated with disturbance of potentially contaminated sites under the RNRP. This is discussed further in section 2.4.5.3 of this application.
Disturbing soil *Regulation 8(3)* *Disturbing the soil of the piece of land is a permitted activity while the following requirements are met:* *(a) controls to minimise the exposure of humans to mobilised contaminants must—* *(i) be in place when the activity begins:* *(ii) be effective while the activity is done:* *(iii) be effective until the soil is reinstated to an erosion-resistant state:* *(b) the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:* *(c) the volume of the disturbance of the soil of the piece of land must be no more than 25 m^3 per 500 m^2:* *(d) soil must not be taken away in the course of the activity, except that, —* *(i) for the purpose of laboratory analysis, any amount of soil may be taken away as samples:*	Any land disturbance of a potentially contaminated site required under this CSC will be undertaken in accordance with this regulation. If any proposed works exceed the prescribed limits the Council will seek the relevant authority on a case-by-case basis. Programmed maintenance of the stormwater network and any associated disturbance of a "piece of land" (as per the NES-CS) will be submitted to BOPRC in the CMP prior to any works commencing. This will include any requirements to complete a DSI and associated soil sampling. Information within the CMP will stipulate specifically how the Council will achieve compliance with regulation 8(3) either on a site-by-site

Relevant regulation/s	Assessment
(ii) for all other purposes combined, a maximum of 5 m3 per 500 m^2 of soil may be taken away per year: *(e) soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:* *(f) the duration of the activity must be no longer than 2 months:* *(g) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.*	basis, or by as a set of practices/standards to be used for all sites.

9.4.2.4 NES-TF

As per section 2.4.5.4 of this application, authority of the proposed activity under the NES-TF is not required, it is acknowledged that permitted activity limits are set within the NES-TF, there is potential for these activities to be undertaken within the Whakatāne stormwater network, and the Council will need manage their network accordingly.

It is not envisaged that any activities undertaken within the Whakatāne stormwater network under the NES-TF will give rise to any adverse effects, assuming all works comply with the permitted activity clauses and comply with any limits/standards prescribed by the TA and the NES-TF.

9.4.2.5 NES-PF

As discussed in section 2.4.5.5 of this application, the proposed activities do not require authority under the NES-PF.

9.4.2.6 NES-F

The NES-F regulates and sets requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. Anyone carrying out these activities will need to comply with the standards.

Table 10 assesses the proposed activity in relation to the relevant parts of the NES-F.

Table 10: Relevant parts of the NES-F

Relevant regulation/s	Assessment
Part 3 ***Subpart 1 – Natural Wetlands*** *Regulations 38-45*	This application is not for the following activities as identified in the NES-F: • Restoration of natural wetlands • Scientific research • Construction of wetland utility structures • Maintenance of wetland utility structures, or • Construction of Specified infrastructure.
Regulation 46 – Permitted activities *Maintenance and operation of specified infrastructure and other infrastructure:* *(1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—* *(a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and* *(b) complies with the conditions.* *(2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—* *(a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and* *(b) complies with the conditions.* *(3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a permitted activity if it—* *(a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and* *(b) complies with the conditions.* *(4) Conditions* *(5) The conditions are that—* *(a) the activity must comply with the general conditions on natural wetland activities in regulation 55 (but regulation 55(2), (3)(b) to (d), and (5) do not apply if the*	The operation and maintenance of existing structures (authorised under Regulation 60 of the NES-F) within a natural wetland (as identified in Figure 3.1 of Appendix 2) will be in accordance with Regulation 46 (1)-(3). The operation of the infrastructure will not comply with all general conditions in Regulation 55 (specifically 55(3)(b), (c), (d) or (e)) as required by Regulation 46(4)(a). Given the identified natural wetland/s exists within the Whakatāne River, there is little ability to implement the actions stipulated in Regulation 55 (5) (a)-(f). Therefore, the activity, as proposed, does not comply with the permitted activity limits of Regulation 46. The stormwater network has discharge points that discharge to or within a 100 m setback of the identified natural wetlands. These discharge points are identified in Section 3.11 of Appendix 2.

Relevant regulation/s	Assessment
activity is for the purpose of maintaining or operating hydro-electricity infrastructure); and *(b) the activity must not be for the purpose of increasing the size of the specified infrastructure or other infrastructure; and* *(c) the activity must not result in the formation of new pathways, boardwalks, or other accessways; and* *(d) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not occur over more than 500 m2 or 10% of the area of the natural wetland, whichever is smaller; and* *(e) if the activity is earthworks or land disturbance, —* *(i) trenches dug (for example, to maintain pipes) must be backfilled and compacted no later than 48 hours after being dug; and* *(ii) the activity must not result in drains being deeper, relative to the natural wetlands water level, than they were before the activity.*	
Regulation 47 Restricted Discretionary Activities *(1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—* *(a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and* *(b) does not comply with any of the conditions in regulation 46(4).* *(2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—* *(a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and* *(b) does not comply with any of the conditions in regulation 46(4).* *(3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it—* *(a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and* *(b) does not comply with any of the conditions in regulation 46(4) but does comply with the conditions in subclause (5) of this regulation.*	The operation and maintenance of existing structures will not comply with Regulation 47, specifically 47(5) (b) and (c), the ongoing operation (namely discharges) are not consistent with Regulation 47(6). Given the identified natural wetland exists within the Whakatāne River, there is little ability to implement the remediating actions stipulated to remedy any effects on the bed of the wetland within the river.

Relevant regulation/s	Assessment
(4) However, the conditions in subclause (5) of this regulation do not apply if the activity is for the purpose of maintaining or operating hydro-electricity infrastructure. *Conditions* *(5) The conditions are that—* *(a) the activity must be undertaken only for as long as necessary to achieve its purpose; and* *(b) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of the natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (c) to be verified; and* *(c) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 30 days after the start of the activity.* *(6) However, the condition in subclause (5)(c) does not apply to any part of the bed that is in direct contact with a part of the specified infrastructure or other infrastructure that was constructed for maintenance purposes.*	
Other Activities *Regulation 54 Non-complying activities* *(1) The following activities are non-complying activities if they do not have another status under this subpart:* *(a) vegetation clearance within, or within a 10 m setback from, a natural wetland:* *(b) earthworks within, or within a 10 m setback from, a natural wetland:* *(c) the taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland.*	Discharges from the stormwater network to a natural wetland do not comply with any other provisions of the NES-F. They are therefore a non-complying activity under Regulation 54. The General Matters listed under Regulation 55 are therefore used as performance criteria to assess the proposed activity against.
General Matters *Regulation 55-General conditions on natural wetland activities* *(1) This regulation applies if a regulation in this subpart refers to the compliance of an activity with the general conditions in this regulation.*	These General Conditions are used as performance criteria for a non-complying activity under this NES.
General condition for permitted activities: prior notice of activity	The activity is not a permitted activity, however notification to BOPRC of any changes to the management or upcoming maintenance via the CMP will occur as standard practice. An

Relevant regulation/s	Assessment
(2) If this regulation applies in relation to a permitted activity, the 1 or more persons responsible for undertaking the activity must, at least 10 working days before starting the activity, provide the relevant regional council with the following: *(a) ……*	exception to this will be emergency repairs or works as deemed appropriate under s330 of the RMA (Emergency Works).
(3) The general conditions relating to water quality and movement are as follows: *(a) the activity must not result in the discharge of a contaminant if the receiving environment includes any natural wetland in which the contaminant, after reasonable mixing, causes, or may cause, 1 or more of the following effects:* *(i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:* *(ii) a conspicuous change in colour or visual clarity:* *(iii) an emission of objectionable odour:* *(iv) the contamination of freshwater to the extent that it is not suitable for farm animals to drink:* *(v) adverse effects on aquatic life that are more than minor; and* *(b) the activity must not increase the level of flood waters that would, in any flood event (regardless of probability), inundate all or any part of the 1% AEP floodplain (but see subclause (4)); and* *(c) the activity must not alter the natural movement of water into, within, or from any natural wetland (but see subclause (5)); and* *(d) the activity must not involve taking or discharging water to or from any natural wetland (but see subclause (5)); and* *(e) debris and sediment must not—* *(i) be placed within a setback of 10 m from any natural wetland; or* *(ii) be allowed to enter any natural wetland.*	Natural wetlands exist within the tidal reaches of the Whakatāne River and are subject to tidal cycles and saline water. The river also receives significant inflows from upstream catchments. Stormwater discharges from the network are often connected to other stormwater inputs to the river from other catchments. The Hamill Report notes that the proposed stormwater discharges to the Whakatāne River may on occasion cause the outcomes listed under (3)(a)(i)-(v) however after reasonable mixing any effect within the natural wetland should be negligible. The stormwater discharge to the river is through the town's stopbank system. The Whakatāne urban area drains to the river, with the river contained within stopbanks preventing it from inundating the urban areas when in flood. During flood events, gravity drainage of stormwater is not possible as the flap gates on the outlets are closed by the water in the river. Stormwater is then pumped into the river. The stormwater discharges to the natural wetland constitute a small portion of the volumes likely to contribute to river levels within the Whakatāne River. These contributions have been considered in the design and management of the stormwater network and the flood scheme. These discharges are likely to have minimal influence on flooding within the 1% AEP floodplain, with the purpose of the discharges being to avoid flooding of land and/or dwellings within the township. Stormwater discharges to the natural wetland will not further alter the natural movement of water into, within, or from the wetland. The surrounding environments have been heavily modified to provide drainage and protection to properties from flood events,

Relevant regulation/s	Assessment
	alterning the way water (including stormwater) drains to the Whakatāne River and associated wetlands. The design and management of the stormwater network will ensure any adverse effects on the wetland caused by the discharges of sediment or debris are suitably avoided through practices such as regular maintenance, erosion control, debris traps etc. Monitoring results provided in the Hamill Report indicate the quality of stormwater being discharged. The draft SMP details how the Council proposes to monitor future discharges to ensure they continue to avoid causing adverse effects.
(4) Subclause (3)(b) does not apply if the person undertaking the activity—	The Council does not own or control the land/structures potentially affected within the 1% AEP floodplain.
(5) Despite subclause (3)(c) and (d), the temporary taking, use, damming, or diversion of water around a work site, or discharges of water into the water around a work site, may be undertaken if the following conditions are complied with: *(a) the activity must be undertaken during a period when there is a low risk of flooding; and* *(b) the activity must be undertaken only for as long as necessary to achieve its purpose; and* *(c) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of any affected natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (d) to be verified; and* *(d) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 14 days after the start of the activity; and* *(e) if the activity is damming, the dam must be no higher than 600 mm; and* *(f) if the activity is a diversion that uses a pump, a fish screen with mesh spacing no greater than 3 mm must be used on the intake.*	The ongoing discharges from the stormwater network are not temporary in nature, however any maintenance works on structures within the vicinity of the identified natural wetlands will comply with these provisions. There are no structures within the wetland itself, and it is unlikely that any disturbance to the wetland bed would occur. The CMP will contain forecasted programmed maintenance works. This Information within the CMP will stipulate specifically how the Council will achieve compliance with these conditions whilst undertaking works, either on a site-by-site basis, or as a set of practices/standards to be used for all sites.
(7) The general condition relating to earth stability and drainage is that the activity must not create or contribute to— *(a) the instability or subsidence of a slope or another land surface; or*	All land disturbance associated with the installation of the stormwater network has been completed.

Relevant regulation/s	Assessment
(b) the erosion of the bed or bank of any natural wetland; or *(c) a change in the points at which water flows into or out of any natural wetland; or* *(d) a constriction on the flow of water within, into, or out of any natural wetland; or* *(e) the flooding or overland flow of water within, or flowing into or out of, any natural wetland.*	The stormwater network has been designed (using appropriate standards) to avoid causing land instability issues. Any adverse effects upon land stability caused by the network or its discharges from flood events are remedied as far as practicable. As per section 4.5.2 of Appendix 2, some erosion within the bed of the wetland/Whakatāne River may occur as a result of the stormwater discharges flowing over the bed of the river. When compared to bed erosion within the river from tidal cycles and flood events, any resultant bed disturbance in or around the wetland will be minimal. Management of the network generally seeks to moderate discharge volumes when possible, detaining stormwater before discharging to reduce the velocity and volume. Significant changes to natural water drainage and flows have occurred within the vicinity over the years. Ongoing operation of the network does not seek to further alter these flows other than the potential changes due to climate change (intensity and duration). Any new discharge location from the stormwater network to the Natural Wetland would need to gain consent before it can be included into the CSC.
(8) The general conditions on earthworks, land disturbance, and vegetation clearance are as follows: *(a) during and after the activity, erosion and sediment control measures must be applied and maintained at the site of the activity to minimise adverse effects of sediment on natural wetlands; and* *(b) the measures must include stabilising or containing soil that is exposed or disturbed by the activity as soon as practicable after the activity ends; and* *(c) the measures referred to in paragraph (b) must remain in place until vegetation covers more than 80% of the site; and* *(d) if the activity is vegetation clearance, it must not result in earth remaining bare for longer than 3 months.*	All land disturbance associated with the installation of the stormwater network has been completed. Any maintenance works on structures within the vicinity of the identified natural wetlands will comply with these provisions, there are no structures within the wetland itself, and it is unlikely that any disturbance to the wetland bed would occur. The CMP will contain forecasted programmed maintenance works. This information within the CMP will stipulate specifically how the Council will achieve compliance with these conditions whilst undertaking works; either on a site-by-site basis, or as a set of practices/standards to be used for all sites.

Relevant regulation/s	Assessment
(9) The general conditions relating to vegetation and bird and fish habitats are as follows: *(a) only indigenous species that are appropriate to a natural wetland (given the location and type of the natural wetland) may be planted in it; and* *(b) the activity must not result in the smothering of indigenous vegetation by debris and sediment; and* *(c) the activity must not disturb the roosting or nesting of indigenous birds during their breeding season; and* *(d) the activity must not disturb an area that is listed in a regional plan or water conservation order as a habitat for threatened indigenous fish; and* *(e) the activity must not, during a spawning season, disturb an area that is listed in a regional plan or water conservation order as a fish spawning area.*	All land disturbance associated with the installation of the stormwater network has been completed. The ongoing stormwater discharge to the Whakatāne River is the only activity that requires authority that has the potential to physically disturb the bed of the river/wetland. The discharge of stormwater will have minimal effects on vegetation and fish and bird habitats within the identified natural wetlands.
(10) The general condition relating to historic heritage is that the activity must not destroy, damage, or modify a site that is protected by an enactment because of the site's historic heritage (including, to avoid doubt, because of its significance to Māori), except in accordance with that enactment.	All land disturbance associated with the installation of the stormwater network has been completed. Maintenance work will comply with relevant permitted standards. Where necessary, any other land disturbances will require relevant authorities/consents.
(12) The general conditions on the use of vehicles, machinery, equipment, and materials are as follows: *(a) machinery, vehicles, and equipment used for the activity must be cleaned before entering any natural wetland (to avoid introducing pests, unwanted organisms, or exotic plants); and* *(b) machinery that is used for the activity must sit outside a natural wetland, unless it is necessary for the machinery to enter the natural wetland to achieve the purpose of the activity; and* *(c) if machinery or vehicles enter any natural wetland, they must be modified or supported to prevent them from damaging the natural wetland (for example, by widening the tracks of track-driven vehicles or using platforms for machinery to sit on); and* *(d) the mixing of construction materials, and the refuelling and maintenance of vehicles, machinery, and equipment, must be done outside a 10 m setback from any natural wetland.*	Any vehicle/machinery used will be for maintenance/repair purposes only, except for Emergency Works. All other programmed works will be forecasted and included within the CMP submitted to BOPRC for certification before works commence. It is unlikely that any work will need to be completed within the identified wetland. Information within the CMP will stipulate specifically how the Council will achieve compliance with these conditions whilst undertaking works; either on a site-by-site basis, or as a set of practices/standards to be used for any site.

Relevant regulation/s	Assessment
(13) The other general conditions are as follows: *(a) the activity must be undertaken only to the extent necessary to achieve its purpose; and* *(b) the activity must not involve the use of fire or explosives; and* *(c) if there is existing public access to a natural wetland, the activity must not prevent the public from continuing to access the natural wetland (unless that is required to protect the health and safety of the public or the persons undertaking the activity); and* *(d) no later than 5 days after the activity ends, —* *(i) debris, materials, and equipment relating to the activity must be removed from the site; and* *(ii) the site must be free from litter.*	Stormwater discharges are undertaken only to the extent necessary to achieve its purpose i.e. stormwater drainage and reticulation to the identified SCs in a comprehensive and integrated manner. The operation of the network does not impede access to a natural wetland. Maintenance works may partially impede public access while works are being undertaken, primarily to ensure public safety. The application does not seek the ability to use fire or explosives within the vicinity of the wetland. All maintenance works will comply with conditions (13)(d) (I) and (ii), with the specific details to be provided within the CMP.
Subpart 3 *Regulation 60 When this subpart does not apply* *This subpart does not apply to any of the following structures in, on, over, or under the bed of any river or connected area:* *(a) an existing structure, meaning a structure that was in the river or connected area at the close of 2 September 2020, and including any later alterations or extensions of that structure:* *(b) a customary weir, meaning a weir that is used for the purpose of practising tikanga Māori, including customary fishing practices.*	This regulation relates to existing structures within the stormwater network that are in the bed of a stream/river. Therefore these structures do not require further consideration under Subpart 3 (passage of fish affected by structures).

Summary

All structures associated with this consent application were in place prior to 2 September 2020, therefore Subpart 3 of the NES-FM does not apply to structures, such as culverts or flap gates, and their potential effects on fish passage.

This application seeks authority to undertake works to maintain/replace structures (section 1.4.1 and section 9.3). Compliance with Regulation 46 of the NES-F will need to be achieved if/when undertaking activities within or within proximity to natural wetlands.

Any new structure in the bed of any lake/river or stream will need to be consented individually before being able to be included into the CSC. It is anticipated that any new structure will need to demonstrate how it complies with the NES-F at the time of application. Authority under the NES-F is required for the stormwater discharge in proximity to the natural wetland (within the Whakatāne River). Previous monitoring of the stormwater discharge to the river has not indicated any significant adverse effects on the wetland and the Hamill Report concluded that adverse effects from the stormwater discharge have been largely avoided through the design and operation of the stormwater network. Future management of the network will use ongoing monitoring to determine if changes to the operation of the network are required, this will ensure any future adverse effects can be suitably avoided, remedied or mitigated.

9.4.2.7 NES-TO

As discussed in section 2.4.5.7 of this application, the proposed activities do not require authority under the NES-TO.

9.4.3 National policy statements

The following national policy statements ("**NPS**") are relevant to this application:

- New Zealand Coastal Policy Statement 2010 ("**NZCPS**")
- National Policy Statement for Freshwater Management 2020 ("**NPS-FM**")
- National Policy Statement on Urban Development 2020 ("**NPS-UD**")

The following NPS are in effect but are not relevant to the proposal:

- National Policy Statement on Electricity Transmission 2008
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement for Highly Productive Land 2022.

9.4.3.1 NZCPS

The NZCPS provides national direction on coastal policy via objectives and policies. Table 11 identifies the objectives and policies that are most relevant to the discharge of stormwater to the CMA and the associated structures.

Stormwater network structures within the CMA are authorised as a permitted activity under the RCEP and do not require consideration under the NZCPS. Activities considered under the NZCPS include stormwater discharges (CMA and Coastal Environment) and structures outside of the CMA but within the Coastal Environment.

Table 11: Relevant parts of the NZCPS

Relevant provisions	Assessment
Policy 2 *In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:* *(a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;* *(b) …* *(c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori[22] in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;* *(d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga[23], may have knowledge not otherwise available;* *(e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and*	The Council has engaged with TRONA through the development of this application. The relevant provisions of the Ngāti Awa Environmental Plan have been considered. Outcomes from consultation with TRONA will be used to develop appropriate cultural monitoring and indicators to be included within the draft SMP. In addition, the Council has identified all parties that have lodged applications with the High Court under the MACA Act relevant to the Whakatāne River.

[22] Māori customary knowledge, traditional knowledge or intergenerational knowledge.
[23] A person skilled or versed in the customary and traditional knowledge, tikanga, arts, histories and genealogies of a particular iwi or hapū.

Relevant provisions	Assessment
lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and *(i) …* *(ii) …* *(f) provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:* *(i) bringing cultural understanding to monitoring of natural resources;* *(ii) providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;* *(iii) …* *(g) in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:* *(i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and* *(ii) provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.*	
Policy 3 Precautionary approach *(1) Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.* *(2) In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:* *(a) avoidable social and economic loss and harm to communities does not occur;* *(b) natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and* *(c) the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.*	The Council has proposed to manage the stormwater network and subsequent discharges under the CMP. The CMP is designed around adaptive management principles, these being plan, implement, monitor and evaluate in a cyclic process. These principles ensure the activities are suitably monitored to detect any adverse effects and devise actions to further avoid, remedy or mitigate them. This process allows for flexibility in how the network is managed and is able to respond to climate change and natural adjustments that occur within the coastal environment. The design and management of the stormwater network has been based around protecting the social and economic needs of the

Relevant provisions	Assessment
	Whakatāne communities by providing a drainage service to better protect property from surface flooding. The design of the network seeks to protect and, where possible, enhance the natural character of the coastal environment. Through the CMP process, the Council seeks to further adopt enhancement work to ensure the amenity and associated values of the coastal environment are appropriate for future generations.
Policy 6 Activities in the coastal environment *(1) In relation to the coastal environment:* *(b) consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;* *(1) Additionally, in relation to the coastal marine area:* *(b) recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;* *(c) recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;*	The location and design of the Whakatāne Township requires the existence of stormwater infrastructure and associated discharges within the Coastal Environment and CMA. There is a functional need for their existence.
Policy 11 Indigenous biological diversity (biodiversity) *To protect indigenous biological diversity in the coastal environment:* *(a) avoid adverse effects of activities on:* *(i) indigenous taxa[24] that are listed as threatened or at risk in the New Zealand Threat Classification System lists;* *(ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;* *(iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;* *(iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare; (v) areas containing nationally significant examples of indigenous community types; and*	The Hamill Report provides an ecological assessment, including identification of ecological effects from stormwater discharges, and a summary of the identified values of the whole network. Overall effects identified within the Coastal Environment as a result of stormwater are low to very low. The application does not seek to further modify or adversely impact any biodiversity values within the coastal environment beyond what has already occurred. Mitigations to further avoid, remedy or mitigate the impacts of the stormwater network on

[24] Named biological classification units assigned to individuals or sets of species (e.g. species, subspecies, genus, order, variety).

Relevant provisions	Assessment
(v) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and *(b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:* *(i) areas of predominantly indigenous vegetation in the coastal environment;* *(ii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;* *(iii) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;* *(iv) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;* *(v) habitats, including areas and routes, important to migratory species; and (vi) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*	biodiversity within the coastal environment have been identified in the Hamill Report.
Policy 13 Preservation of natural character *(1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:* *(a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and* *(b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;*	Adverse effects on character within the surrounding environment as a result of physical disturbance or works have already occurred during the development of the stormwater network. No further disturbance or works other than maintenance and/or repair is requested.
Policy 14 Restoration of natural character *Promote restoration or rehabilitation of the natural character of the coastal environment, including by:* *(a) identifying areas and opportunities for restoration or rehabilitation;* *(b) …* *(c) where practicable, imposing or reviewing restoration or rehabilitation conditions on resource consents and designations, including for the continuation of activities; and recognising that where degraded areas of the coastal environment require restoration or rehabilitation, possible approaches include:*	Where practicable the Council has sought to improve the natural character within the coastal environment. This has involved the development of natural vegetation within the network, regular maintenance and removal of debris and litter.

Relevant provisions	Assessment
Policy 15 Natural features and natural landscapes *To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:* *(a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and* *(b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;*	The Coastal Environment within the Whakatāne township is heavily modified. The application does not seek to further modify the coastal environment other than through maintenance work on parts of the scheme, or enhancement work around natural features within the coastal environment.
Policy 19 Walking access *(1) Recognise the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use.*	Design and operation of the stormwater network ensures walking access to and along the Whakatāne River. Access to the CMA is not restricted via stormwater structures.
Policy 21 Enhancement of water quality *Where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities, give priority to improving that quality by:* *(a) identifying such areas of coastal water and water bodies and including them in plans;* *(b) including provisions in plans to address improving water quality in the areas identified above;* *(c) where practicable, restoring water quality to at least a state that can support such activities and ecosystems and natural habitats;* *(d) requiring that stock are excluded from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment, within a prescribed time frame; and* *(e) engaging with tangata whenua to identify areas of coastal waters where they have particular interest, for example in cultural sites, wāhi tapu, other taonga, and values such as mauri, and remedying, or, where remediation is not practicable, mitigating adverse effects on these areas and values.*	
Policy 22 Sedimentation: *(1) Assess and monitor sedimentation levels and impacts on the coastal environment.*	Sediment levels within the coastal environments will be impacted as a result of the stormwater network. Design elements within the

Relevant provisions	Assessment
(2) Require that subdivision, use, or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water. *(3) Control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry.* *(4) Reduce sediment loadings in runoff and in stormwater systems through controls on land use activities.*	town's stopbanks seek to, where possible, detain stormwater flows in order to reduce sediment discharges to the Whakatāne River and CMA. The stormwater network is monitored and maintained to reduce erosion and sediment losses. The network's sediment contribution to the Whakatāne River is minimal when compared to contributions from other contributing land uses up-stream, including natural erosion in flood/high flow events.
Policy 23 Discharge of contaminants *(1) In managing discharges to water in the coastal environment, have particular regard to:* *(a) the sensitivity of the receiving environment.* *(b) the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and* *(c) the capacity of the receiving environment to assimilate the contaminants; and:* *(d) avoid significant adverse effects on ecosystems and habitats after reasonable mixing;* *(e) use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and* *(f) minimise adverse effects on the life-supporting capacity of water within a mixing zone.* *(2) In managing discharge of human sewage, do not allow:* *(a) discharge of human sewage directly to water in the coastal environment without treatment; and* *(b) the discharge of treated human sewage to water in the coastal environment, unless:* *(i) …* *(ii) …* *(3) …* *(4) In managing discharges of stormwater take steps to avoid adverse effects of stormwater discharge to water in the coastal environment, on a catchment by catchment basis, by:*	Discharges to Whakatāne River and their impacts have been addressed in the Hamill Report as "Negligible". Suitable operational procedures and practices have been put in place to ensure contaminants are controlled at their source through bylaws and land use controls. The stormwater and sewerage network are separated and largely operate without cross contamination. When ruptures or overflows or spills do occur, the Council responds to control the contamination as set out in the *Regional best practice guide for the management of wastewater overflows, Regional Wastewater Management Group, November 2019.* The Whakatāne Urban Stormwater Network has been divided into 9 SCs, and is proposed to be managed in an integrated manner via the CMP as submitted. Where possible stormwater detention and soakage is promoted, noting the physical constraints within the catchments due to low lying land and water table heights.

Relevant provisions	Assessment
(a) avoiding where practicable and otherwise remedying cross contamination of sewage and stormwater systems; *(b) reducing contaminant and sediment loadings in stormwater at source, through contaminant treatment and by controls on land use activities;* *(c) promoting integrated management of catchments and stormwater networks; and* *(d) promoting design options that reduce flows to stormwater reticulation systems at source.* *(5) In managing discharges from ports and other marine facilities:* *(a) require operators of ports and other marine facilities to take all practicable steps to avoid contamination of coastal waters, substrate, ecosystems and habitats that is more than minor;* *(b) …* *(c) …* *(d) …*	Stormwater discharges from marine areas are controlled via consent conditions specific to these areas, directing site management and controls. It is envisaged that these controls will be replicated within any CSC granted. Further monitoring has been recommended within the draft SMP. This monitoring will continue to determine resultant stormwater quality and identify areas where further action may be required to ensure adverse effects from the discharge of contaminants are avoided, remedied or mitigated.
Policy 24 Identification of coastal hazards *(1) Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are to be assessed having regard to:* *(a) physical drivers and processes that cause coastal change including sea level rise;* *(b) short-term and long-term natural dynamic fluctuations of erosion and accretion; (c) geomorphological character;* *(c) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;* *(d) cumulative effects of sea level rise, storm surge and wave height under storm conditions;* *(e) influences that humans have had or are having on the coast;* *(f) the extent and permanence of built development; and* *(g) the effects of climate change on:* *(i) matters (a) to (g) above;* *(ii) storm frequency, intensity and surges; and* *(iii) coastal sediment dynamics; taking into account national guidance and the best available information on the likely effects of climate change on the region or district.*	The stormwater modelling of the network (Appendix 4) included climate change within the modelling exercise. Outcomes from the modelling address issues associated with stormwater flows and high tides for the Council to consider in its management and design of the network. The Council operates the stormwater system in co-operation with BOPRC's Scheme using the existing infrastructure to protect the town from flooding within the limits of the scheme's infrastructure.

Relevant provisions	Assessment
Policy 27 Strategies for protecting significant existing development from coastal hazard risk: *(2) In areas of significant existing development likely to be affected by coastal hazards, the range of options for reducing coastal hazard risk that should be assessed includes:* *(a) promoting and identifying long-term sustainable risk reduction approaches including the relocation or removal of existing development or structures at risk;*	The potential impact from coastal hazards will be an ongoing consideration within the CMP process. Any significant changes to the stormwater network will likely require a separate RMA process to consider the proposed changes to the network at the time.

Summary

The application as proposed is consistent with the relevant matters and direction given within the NZCPS. Further the NZCPS has been given effect to by the RCEP. An assessment of the activity against the RCEP's provisions is provided later in this application.

9.4.3.2 NPS-FM

The NPS-FM sets out the objectives and policies for freshwater management under the RMA. It came into effect on 3 September 2020 and replaces the National Policy Statement for Freshwater Management 2014 (amended 2017). As identified by Clause 1.5 of the NPS-FM, it applies to all freshwater (including ground water) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area). The RNRP gives effect to the NPS-FM. Clause 3.4 states that every local authority must actively involve tāngata whenua in freshwater management. The following NPS-FM provisions are considered relevant to this application:

Table 12: Relevant parts of the NPS-FM

Relevant provisions	Assessment
*(1) The **objective** of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:* *(a) first, the health and well-being of water bodies and freshwater ecosystems* *(b) second, the health needs of people (such as drinking water)* *(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*	The design and management of the stormwater network is to transport stormwater from the urban catchments ultimately to the Whakatāne River. In achieving this, a number of waterways within the urban catchments receive and convey stormwater. Monitoring of the water quality within these streams and an assessment of the impacts has been provided. In addition suitable mitigations have been proposed to address water quality issues and a draft SMP has been proposed to ensure monitoring is appropriate and targeted so that water quality is maintained. Potential impacts on drinking water have been discussed within the AEE (section 2.4.5.1). The stormwater network is designed to protect the social and economic

Relevant provisions	Assessment
	needs of the Whakatāne community by providing a drainage service to better protect homes and property from surface flooding.
***Policy 1**: Freshwater is managed in a way that gives effect to Te Mana o te Wai.*	The Council, through development of the CMP and ongoing consultation with TRONA, seek to achieve a stormwater network that is consistent with the principles of Te Mana o te Wai.
***Policy 2**: Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.*	An assessment of the proposed activities against the relevant iwi management plan (Ngāti Awa Environmental Plan – Te Mahere Whakarite Matatiki Taiao ō Ngāti Awa) is included in this application. Consultation with Ngāti Awa as tangata whenua is ongoing.
***Policy 3**: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.*	The receiving environments have been identified and the actual and potential effects upon them discussed previously in the AEE. The stormwater network largely exists in the bottom of the Whakatāne River catchment, and as such is considerate of the whole catchment.
***Policy 6**: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.*	The application does not seek to reduce the extent of natural or constructed wetlands within the urban catchment. The identified natural wetlands within the Whakatāne River are also within the CMA. Information provided in Appendix 2 has concluded that the proposed operation of the network will ensure adverse effects on the wetland will be suitably avoided or mitigated.
***Policy 7**: The loss of river extent and values is avoided to the extent practicable.*	The application does not seek to further impact on the extent of rivers/streams lost to reclamation or similar. Information has been provided to describe the current effects upon the values of identified water ways, along with mitigations to further avoid impacting these values.
***Policy 9**: The habitats of indigenous freshwater species are protected.*	Information on the ecological health of the associated waterways has been provided in the Hamill Report (Appendix 2)**.** The application does not seek to further impact upon these habitats. Proposed mitigations seek to maintain or improve the health of the identified waterways.

Relevant provisions	Assessment
***Policy 10**: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.*	The Whakatāne River is identified as providing habitat for trout. No trout have been identified within streams of the urban catchment, nor is it anticipated that trout would persist within the lower inter-tidal reaches of the Whakatāne River.
***Policy 13**: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.*	The Council seeks to manage the stormwater network and its discharges utilising adaptive management - this would require ongoing monitoring of the identified water bodies, and changes to management/operational practices if/when any degradation of water quality occurs as a result of stormwater.
***Policy 15**: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.*	The ongoing operation and maintenance of the stormwater network is pivotal to the protection of Whakatāne from flooding and damage from stormwater. Through its ongoing operation, the network safeguards the community's wellbeing. As assessed under the relevant provisions, the network is operated in a manner that is consistent with the NPS-FM.
Part 3: Implementation ***3.17 Identifying take limits*** *(3) Where a regional plan or any resource consent allows the taking, damming, diversion or discharge of water, the plan or resource consent must identify the flows and levels at which:* *(a) the allowed taking, damming, or diversion will be restricted or no longer allowed; or* *(b) a discharge will be required.*	The consent application requires authorisation for discharges of stormwater to various streams and ultimately the Whakatāne River. Monitoring of the discharge and receiving environments has been proposed within the draft SMP. Discharges are intrinsically linked to rainfall/storm events. The impacts of these discharges in relation to specified rainfall events has been provided within Appendix 4 - Stormwater Modelling**.**
Subpart 3 Specific requirements ***3.22 Natural inland wetlands*** *(1) Every regional council must include the following policy (or words to the same effect) in its regional plan(s): "The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:* *(a) the loss of extent or values arises from any of the following:* *(i) …*	This application is for the operation and maintenance of 'specified infrastructure' that is already in place, has a functional need to be in the current location/s and to continue conveying and discharging stormwater. The RPS identifies the stormwater network as Regionally Significant Infrastructure. The discharges of stormwater to the identified streams and the Whakatāne River are currently authorised and form part of the existing environment.

Relevant provisions	Assessment
(ii) … *(iii) …* *(iv) …* *(v) …* *(vi) the maintenance or operation of specified infrastructure, or other infrastructure (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020* *(vii)…* *(2) Subclause (3) applies to an application for a consent for an activity:* *(a) that falls within any exception referred to in paragraph (a)(ii) to (vii) or (b) of the policy in subclause (1); and* *(b) would result (directly or indirectly) in the loss of extent or values of a natural inland wetland.* *(3) Every regional council must make or change its regional plan(s) to ensure that an application referred to in subclause (2) is not granted unless:* *(a) the council is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied to any loss of extent or values of the wetland (including cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of: ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity value; and* *(b) any consent is granted subject to:* *(i) conditions that apply the effects management hierarchy; and*	As discussed previously within the assessments of the NES-F and NPS-FM, this application does not request to reduce the extent of any natural wetland, nor adversely impact on its current or potential values. The actual effects upon the identified wetland have been detailed in the Hamill Report. This assessment used historic monitoring of the stormwater and the receiving environment. Further targeted monitoring has been proffered to ensure future adverse effects are avoided where possible or mitigated such that adverse effects are suitably minimised.

Relevant provisions	Assessment
(ii) a condition requiring monitoring of the wetland at a scale commensurate with the risk of the loss of extent or values of the wetland.	
3.24 Rivers *(1) Every regional council must include the following policy (or words to the same effect) in its regional plan(s): "The loss of river extent and values is avoided, unless the council is satisfied:* *(a) that there is a functional need for the activity in that location; and* *(b) the effects of the activity are managed by applying the effects management hierarchy."* *(2) Subclause (3) applies to an application for a consent for an activity:* *(a) that falls within the exception to the policy described in subclause (1); and* *(b) would result (directly or indirectly) in the loss of extent or values of a river.* *(3) Every regional council must make or change its regional plan(s) to ensure that an application referred to in subclause (2) is not granted unless:* *(a) the council is satisfied that the applicant has demonstrated how each step in the effects management hierarchy will be applied to any loss of extent or values of the river (including cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of: ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity; and* *(b) any consent granted is subject to conditions that apply the effects management hierarchy.* *(4) Every regional council must:*	This application is for the operation and maintenance of 'specified infrastructure' that is already in place, has a functional need to be in the current location/s and to continue conveying and discharging stormwater. The discharges of stormwater to the identified streams and the Whakatāne River are currently authorised and form part of the existing environment. As discussed previously within the assessments of the NES-F and NPS-FM, this application does not request to reduce the extent of any river/stream. The potential values of some streams within the urban area are limited due to the urban development around them and previous authorisations granted to modify the bed/bank of these streams in order to manage flooding, erosion and stability. The actual effects upon the identified river/streams have been detailed in the Hamill Report. This assessment used historic monitoring of the stormwater and the receiving environments. Further targeted monitoring has been proffered to ensure future adverse effects are avoided where possible or mitigated as discussed such that adverse effects are suitably minimised.

Relevant provisions	Assessment
(a) develop and undertake a monitoring plan that: (i) monitors the condition of its rivers; and (ii) contains sufficient information to enable the council to assess whether its policies, rules, and methods are ensuring no loss of extent or values of the rivers; and *(b) have methods to respond if loss of extent or values is detected.*	

Summary

The application is consistent with the relevant matters and direction given within the NPS-FM. The existing structures have a functional need to remain in the identified location. The ongoing operation of the stormwater network safeguards the community's wellbeing. Management under the CMP will ensure the health and wellbeing of the identified water bodies and features are maintained, and that adverse effects on identified values are largely avoided, if not mitigated.

9.4.3.3 NPS-UD

The NPS-UD applies to all local authorities that have all or part of an urban environment within their district or region and largely relates to any planning decisions required by a local authority that effects an urban environment. Whakatāne District Council is a Tier 3 local authority under the NPS-UD.

As discussed in section 8.3, it is envisaged that any new catchment areas associated with land development that seek to discharge to the existing stormwater network will need to obtain the relevant consents from both the Council and BOPRC. Once consent is obtained and the new infrastructure completed to the required standards, this can then be incorporated into the catchment management plan, and the consent subsequently surrendered, as it will be covered by the CMP.

9.4.4 Bay of Plenty Regional Policy Statement

The RPS provides a framework for sustainably managing the region's natural and physical resources. It highlights regionally significant issues with our land, air, fresh and coastal water, infrastructure and biodiversity, including issues of significance to iwi. It sets out what needs to be achieved (objectives) and how it will be achieved (policies and methods).

The following objectives, policies, and methods are the most relevant to the discharge of stormwater and the associated structures.

Table 13: Relevant parts of the of the RPS

Relevant provisions	Assessment
Coastal Environment *Objective 2* *Preservation, restoration and, where appropriate, enhancement of the natural character and ecological functioning of the coastal environment*	
Policy CE 6B: Protecting indigenous biodiversity *Use the criteria in Policy 11 of the New Zealand Coastal Policy Statement 2010 to identify and protect areas of indigenous biological diversity in the coastal environment requiring protection under that policy.*	The application does not seek consent to disturb areas within the identified IBDA sites. Policy 11 of the NZCPS has been assessed previously.
Policy CE 8B: Ensuring subdivision, use and development is appropriate to the natural character of the coastal environment *When assessing the effect of subdivision, use and development on the natural character of the coastal environment, particular regard shall be given to:* *(a) The level of natural character as shown in Maps in Appendix I, as described in Appendix J, and the level of protection to be afforded by Policy CE 2B;* *(b) The criteria contained in Set 1 of Appendix F to further refine natural character for resource consents or site-specific mapping;* *(c) Maintaining coastal margins in a natural state and protecting the natural values of beaches and dune systems, including their ability to reduce the impacts of coastal hazards such as tsunami and storm surge;*	The stormwater network seeks to continue to 'Use' land within the Coastal Environment, the use of this land has previously been authorised. The ongoing use is appropriate within the Coastal Environment given the urban development and the infrastructure constructed to protect the social and economic values of the community. There is no further development or subdivision sought via this application.

Relevant provisions	Assessment
(d) The appropriateness of the introduction or accumulation of man-made modifications recognising activities that are: *(i) planned (consented, zoned or designated);* *(ii) provided for in reserve management plans; or* *(iii) identified in Appendix C, D and E; or* *(iv) lawfully established;* *(e) The provisions of Customary Marine Title Management Plans;* *(f) Subject to Policy CE 2B avoiding significant adverse effects and avoiding, remedying or mitigating (including, where appropriate, through provision of buffers) other adverse effects on:* *(i) Visually, ecologically or culturally sensitive landforms, including ridgelines, coastal cliffs, beaches, headlands, and peninsulas and visually prominent public open space;* *(ii) Estuaries, lagoons, wetlands and their margins (saline and freshwater), dune lands, rocky reef systems and areas of eelgrass and salt marsh;* *(iii) Terrestrial and marine ecosystems;* *(iv) Natural patterns of indigenous and exotic vegetation and processes that contribute to the landscape and seascape value of the area; and* *(v) Regionally significant surf breaks and their swell corridors, including those at Matakana Island and the Whakatāne Heads;*	
Policy CE 9B: Safeguarding the life-supporting capacity of coastal ecosystems *Safeguard the life-supporting capacity of coastal and marine ecosystems by maintaining or enhancing:* *(a) Any area within the inter-tidal or sub-tidal zone that contains unique, rare, distinctive or representative marine and avian species or habitats;* *(b) Areas used by marine mammals as breeding, feeding or haul-out sites;* *(c) Habitats in the coastal environment that are important during the vulnerable life stages of indigenous species or any life stage of species listed as threatened or at risk by the Department of Conservation;*	The Hamill Report includes an assessment of the monitoring results from the stormwater network and the receiving environments. The Hamill Report concluded that adverse effects are suitably avoided or mitigated. The proposed CMP ensures any potential future adverse effect will be remedied upon detection. As such, the life supporting capacity of coastal ecosystems within the surrounding environment will be suitably safeguarded from adverse effects from the stormwater discharges. The use of a CMP will enable improvements within the

Relevant provisions	Assessment
(d) Any areas that contain indigenous coastal ecosystems and habitats that are particularly vulnerable to modification – such as estuaries, lagoons, coastal wetlands, dunelands, rocky reef systems and salt marshes; *(e) The integrity, functioning and resilience of physical and ecological processes; and* *(f) Promoting water quality in the coastal marine area that sustains healthy aquatic ecosystems.*	network in response to monitoring results, further protecting the identified ecosystems.
Policy CE 10B: Managing adverse effects of land-based activities in the coastal environment on marine water quality *Manage adverse effects, including cumulative effects, from land based activities in the coastal environment on marine water quality by:* *(a) Requiring that subdivision, use and development does not result in a significant contribution to sedimentation in the coastal marine area or other water bodies within the coastal environment;* *(b) Minimising the creation of impervious surface areas;* *(c) Minimising contaminants in stormwater that discharges into water or on to land that may enter water, including discharges to existing and new stormwater infrastructure;* *(d) Minimising the risk of releasing contaminants and avoiding releasing discharges from contaminated land;* *(e) Adopting water-sensitive design and management principles;* *(f) Adopting on-site management techniques that will improve the quality of stormwater and/or wastewater prior to discharge;* *(g) Establishing, replacing, retaining and/or enhancing riparian and catchment vegetation for the purpose of promoting setbacks and ecological buffer areas around wetland areas; and* *(h) Assessing treatment alternatives for discharges and adopting the best practicable option for treatment.*	The application has detailed mechanisms in place to control discharges respective to land use within the network. This has included PPP, District Plan Rules to maintain on-site soakage/retention where feasible, litter control and collection, and a commitment to investigate, and where practicable promote stormwater solutions that are sensitive of the receiving environments.

Relevant provisions	Assessment
Integrated Resource Management *Objective 10* *Cumulative effects of existing and new activities are appropriately managed*	
Objective 11 *An integrated approach to resource management issues is adopted by resource users and decision makers*	Monitoring of the stormwater network specifies the upstream water quality of the receiving streams/river, specifically the Whakatāne River. The ongoing management of the network is conscious of the stormwater networks discharges being at the bottom of the Whakatāne River catchment, this is relevant for water quality, ecological values and flood protection.
Policy IR 1B: Applying a precautionary approach to managing natural and physical resources *Apply a precautionary approach to the management of natural and physical resources, where there is scientific uncertainty and a threat of serious or irreversible adverse effects on the resource and the built environment.*	Whilst the stormwater network has been in place and operational for a period of time, the development of the CMP is to enable a precautionary approach to managing resources via adaptive management.
Policy IR 2B: Having regard to the likely effects of climate change *Recognise and provide for the predicted effects of climate change having particular regard to:* *(a) Predicted increase in rainfall intensity, taking account of the most recent national guidance and assuming a minimum increase in the annual mean temperature of 2 °C by 2090 (relative to 1990 levels); and* *Predicted increase in sea level, taking into account the most recent national guidance and the minimum sea-level rise projections in Policy NH 11B.*	At the time of installation, stormwater structures were designed according to the relevant principles of the time. Modelling has been undertaken to identify how the entire network performs. The Council will use the modelling outcomes to target areas that require improvement in capacity and/function. The modelling considered climate change within the design storm events.
Policy IR 3B: Adopting an integrated approach	The CMP aims to provide for integrated and comprehensive management of stormwater.

Relevant provisions	Assessment
Policy IR 4B: Using consultation in the identification and resolution of resource management issues Encourage the timely exchange, consideration of, and response to, relevant information by all parties with an interest in the resolution of a resource management issue by: *(c) Encouraging all parties undertaking resource use, development and protection activities to consult with others who may be affected.*	The Council has undertaken community consultation during the preparation of the consent application and the CMP. In addition, the Council has requested that this application be publicly notified in the interest of ensuring members of the community are able to participate in the process.
Policy IR 5B: Assessing cumulative effects *Give regard to the cumulative effects of a proposed activity in contributing to:* *(a) Incremental degradation of values of sites identified as having high natural character (in accordance with Policies CE 2B and CE 8B);* *(b) Incremental degradation of matters of significance to Māori including cultural effects (in accordance with Policy IW 5B);* *(c) Incremental degradation of water quality from point source and non-point source discharges including urban stormwater;* *(d) Inefficient use of space associated with sprawling or sporadic new subdivision, use or development;* *(e) Incremental degradation of scenic values, amenity, open space, recreation and the general use and enjoyment by the public;* *(f) Adverse impacts on coastal processes, resource or values, biodiversity and ecological functioning;* *(g) The availability of freshwater resources;* *(h) Increased risk from natural hazards;* *(i) The loss of versatile land for rural production activities;* *(j) Effects on the function, efficiency and safety of infrastructure; and* *(k) Social and economic wellbeing.*	Being at the bottom of the catchment, the cumulative effects of the upper catchment land uses have an impact on the water quality of the receiving environments and their assimilative capacity. The draft SMP will continue to monitor the impact of stormwater discharges and the resultant water qualities within the receiving water bodies.
Iwi Resource Management	The principles of the Treaty of Waitangi have been recognised and taken into account when preparing this application.

Relevant provisions	Assessment
Objective 13 Kaitiakitanga is recognised and the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are systematically taken into account in the practice of resource management.	
Objective 14 Partnerships between Bay of Plenty Regional Council, district and city councils and iwi authorities.	
Objective 15 Water, land, coastal and geothermal resource management decisions have regard to iwi and hapū resource management planning documents.	The Ngāti Awa Environmental Plan – Te Mahere Whakarite Matatiki Taiao ō Ngāti Awa has been reviewed and is further discussed within this report. In addition, consultation with TRONA has occurred and is ongoing.
Objective 17 The mauri of water, land, air and geothermal resources is safeguarded and where it is degraded, where appropriate, it is enhanced over time.	The Hamill Report identified a number of potential mitigations to reduce the ecological effects of stormwater on waterways. The proposed mitigations will be considered by the Council.
Policy IW 2B: Recognising matters of significance to Māori Proposals which may affect the relationship of Māori and their culture and traditions must: *(a) Recognise and provide for:* *(i) Traditional Māori uses and practices relating to natural and physical resources such as mahinga mātaitai, waahi tapu, papakāinga and taonga raranga;* *(ii) The role of tangata whenua as kaitiaki of the mauri of their resources;* *(iii) The mana whenua relationship of tangata whenua with, and their role as kaitiaki of, the mauri of natural resources;* *(iv) Sites of cultural significance identified in iwi and hapū resource management plans; and* *(b) Recognise that only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*	The intent is to ensure cultural monitoring is also adaptable, with a process built in to ensure the identified indicators remain relevant to tāngata whenua through the duration of the consent.

Relevant provisions	Assessment
Policy IW 3B: Recognising the Treaty in the exercise of functions and powers under the Act Exercise the functions and powers of local authorities in a manner that: *(a) Takes into account the principles of the Treaty of Waitangi;* *(b) Recognises that the principles of the Treaty will continue to evolve and be defined;* *(c) Promotes awareness and understanding of councils' obligations under the Act regarding the principles of the Treaty, tikanga Māori and kaupapa Māori, among council decision makers, staff and the community;* *(d) Recognises that tangata whenua, as indigenous peoples, have rights protected by the Treaty and that consequently the Act accords iwi a status distinct from that of interest groups and members of the public; and* *(e) Recognises the right of each iwi to define their own preferences for the sustainable management of natural and physical resources, where this is not inconsistent with the Act.*	
Policy IW 4B: Taking into account iwi and hapū resource management plans Ensure iwi and hapū resource management plans are taken into account in resource management decision making processes.	The Council will consult with TRONA to establish effective mechanisms for engaging iwi in ongoing implementation of the CSC, including the development of appropriate cultural monitoring indicators for inclusion in the SMP and engagement in the six yearly review of the SMP. Outcomes from consultation have been discussed where relevant in this report.
Policy IW 5B: Adverse effects on matters of significance to Māori When considering proposals that may adversely affect any matter of significance to Māori recognise and provide for avoiding, remedying or mitigating adverse effects on: *(a) The exercise of kaitiakitanga;* *(b) Mauri, particularly in relation to fresh, geothermal and coastal waters, land and air;*	

Relevant provisions	Assessment
(c) Mahinga kai and areas of natural resources used for customary purposes; *(d) Places sites and areas with significant spiritual or cultural historic heritage value to tangata whenua; and* *(e) Existing and zoned marae or papakāinga land.*	
Policy IW 6B: Encouraging tangata whenua to identify measures to avoid, remedy or mitigate adverse cultural effects Encourage tangata whenua to recommend appropriate measures to avoid, remedy or mitigate adverse environmental effects on cultural values, resources or sites, from the use and development activities as part of consultation for resource consent applications and in their own resource management plans.	The Council will consult with TRONA to establish effective mechanisms for engaging iwi in ongoing implementation of the CSC, including the development of appropriate cultural monitoring indicators for inclusion in the SMP and engagement in the six yearly review of the SMP. Outcomes from consultation have been discussed where relevant in this report.
Matters of National Importance *Objective 19 The preservation of the natural character of the region's coastal environment (including coastal marine areas) wetlands, lakes and rivers and their margins*	
Policy MN 1B: Recognise and provide for matters of national importance *(a) Identify which natural and physical resources warrant recognition and provision for as matters of national importance under section 6 of the Act using criteria consistent with those contained in Appendix F of this Statement;* *(b) Recognise and provide for the protection from inappropriate subdivision, use and development of those areas, places, features or values identified in accordance with (a) in terms of natural character, outstanding natural features and landscapes, and historic heritage;* *(c) Recognise and provide for the protection of areas of significant indigenous vegetation and habitats of indigenous fauna identified in accordance with (a);* *(d) Recognise and provide for enhancing and maintaining public access to and along those areas identified in accordance with (a);*	Portions of the Whakatāne River and adjacent land downstream of the State Highway bridge are identified as an IBDA within the RCEP. Discharges into the CMA are further assessed under the relevant provisions of the RCEP. This application does not seek to disturb or alter land within any IBDA.

Relevant provisions	Assessment
(e) Recognise and provide for the relationship of Māori and their culture and traditions identified in accordance with (a) and Policy IW 2B; and *(f) Recognise and provide for protection to recognised customary activities.*	
Policy MN 2B: Giving particular consideration to protecting significant indigenous habitats and ecosystems Based on the identification of significant indigenous habitats and ecosystems in accordance with Policy MN 1B: *(a) Recognise and promote awareness of the life-supporting capacity and the intrinsic values of ecosystems and the importance of protecting significant indigenous biodiversity;* *(b) Ensure that intrinsic values of ecosystems are given particular regards to in resource management decisions and operations;* *(c) Protect the diversity of the region's significant indigenous ecosystems, habitats and species including both representative and unique elements;* *(d) Manage resources in a manner that will ensure recognition of, and provision for, significant indigenous habitats and ecosystems; and* *(e) Recognise indigenous marine, lowland forest, freshwater, wetland and geothermal habitats and ecosystems, in particular, as being underrepresented in the reserves network of the Bay of Plenty.*	The Hamill Report assessed the potential effects resulting from the stormwater discharges to the Whakatāne River and concluded that any adverse effects resulting from the discharge of stormwater on the river environment are Low or Very Low. This application does not seek to further disturb any significant indigenous habitats or ecosystems.
Urban and Rural Growth Management Policies *Policy UG 11B: Managing the effects of subdivision, use and development on infrastructure* *Manage the design and location of subdivision, use, and development to address potential adverse effects on the operation and upgrading of existing, consented, designated or programmed infrastructure.*	Future subdivisions or land developments are subject to this provision, any new development will need to consider the capacity of the existing network and receiving environment's ability to convey and receive associated stormwater.
Water Quality Policies	The draft CMP provides for regular reviews of the stormwater network, with the draft SMP providing clarity on any issues requiring attention.

Relevant provisions	Assessment
Policy WL 8B: Providing for regular reviews of regional council consent conditions Require that land use, allocation and discharge consents granted by the Regional Council include provision for regular reviews of conditions to take into account advances in science and technology.	In addition, it is expected that consent conditions will include BOPRC's ability to review consent conditions if environmental outcomes are not being achieved.
Natural Hazard Policies *Policy NH 1B: Taking a risk management approach* *Take a risk management approach to control the use, development and protection of land to avoid or mitigate natural hazards by assessing the level of risk according to the likelihood of natural hazards occurring and their potential consequences.*	The design of the stormwater network is cognitive of the hazards present within the surrounding environment as discussed in section 7.6. These hazards have been considered when infrastructure was designed and installed. Future land use changes or developments will need to account for these hazards via any consent or plan process. This would include considering the implications of climate change and sea level rise as relevant.
Policy NH 6B: Exemptions from the natural hazard risk management approach *Policies NH 3B, NH 4B, NH 5B and NH 12A do not apply to the establishment, operation, maintenance and upgrading of activities that have more than low natural hazard risk or which are located in high and medium risk natural hazard zones if the activity:* *(a) Has a significant social, economic, environmental or cultural benefit to the community it services, or is a lifeline utility; and* *(b) Has a functional need for the location.* *In the circumstances described in (a) and (b) above, risk management measures (including industry standards, guidelines or procedures) must be applied to reduce risk to life and property to be as low as reasonably practicable. Infrastructure should be located away from coastal hazard risk where practicable.*	
Policy NH 11B: Providing for climate change Incorporate the effects of climate change in natural hazard risk assessment. Authoritative up-to-date projections of changes in sea level, rainfall, temperature, and storm frequency and severity will be used as updated scientific data become available. *Use the following projections as minimum values when undertaking coastal hazard assessments:*	The stormwater network is behind stopbanks positioned on both sides of the Whakatāne River and serves to reduce the impact of flooding from stormwater within the catchments. It has a functional need to remain, with its existence and operation having significant social and economic benefits to the Whakatāne community.

Relevant provisions	Assessment
(a) A 100-year time frame; *(b) A projection of a base sea-level rise of at least 0.6 m (above the 1980–1999 average) for activities/developments which are relocatable;* *(c) A projection of a base sea-level rise of 0.9 m (above 1980–1999 average) for activities where future adaptation options are limited, such as regionally significant infrastructure and developments which cannot be relocated; and* *(d) An additional sea-level rise of 10 mm/annum for activities with life spans beyond 211*	

Summary

From the above assessment of the RPS, the ongoing operation of the stormwater network and its discharges as proposed is consistent with the relevant policies of the RPS.

9.4.5 Regional plans

9.4.5.1 Bay of Plenty Regional Coastal Environment Plan

The RCEP promotes sustainable management of the natural and physical resources of the Bay of Plenty's coastal environment. The RCEP covers the entire coastal environment including the coastal marine area (the area between mean high water spring tides and the '12 mile limit' of the territorial seas) and the land backdrop. Discharges from the stormwater network to the CMA need authority under the RCEP. The extent of the CMA up the Whakatāne River is depicted in **Figure 14. Figure 15** depicts the boundary of the CE. The following provisions of the RCEP are the most relevant to the proposed activities within the CE and the CMA.

Table 14: Relevant provisions of the RCEP

Relevant provision	Comment
Integrated Resource Management *Objective 1 Achieve integrated management of the coastal environment by:* *(a) Providing a consistent, efficient and integrated management framework;* *(b) Adopting a whole of catchment approach to management of the coastal environment;* *(c) Recognising and managing the effects of land uses and freshwater-based activities (including discharges) on the coastal marine area;* *(d) Enabling the exercise of kaitiakitanga;*	
Policy IR 2 Provide for activities that have a functional need to locate in the coastal marine area in appropriate locations (recognising the positional requirements of some activities), by decision-making, zoning or use of other spatial mechanisms.	Due to the nature of this application, being a CSC to dispose of water from the Whakatāne township into the Whakatāne River, with few viable alternative options, it is clear that the activities identified have a functional need to remain in the CMA.
Natural Heritage *Objective 2 Protect the attributes and values of:* *(a) Outstanding natural features and landscapes of the coastal environment; and* *(b) Areas of high, very high and outstanding natural character in the coastal environment;*	As noted earlier in this report, the RPS identifies Kōhi Point and Piripai Dunes and Spit as being areas of “very high” and “high” natural character (respectively), as referred to in RMA and described in the NZCPS (Policy 13). Appendix J of the RPS provides a description of the attributes and elements that contribute to the natural character of the identified environments. The RCEP also identifies these areas as

Relevant provision	Comment
from inappropriate subdivision, use, and development, and restore or rehabilitate the natural character of the coastal environment where appropriate.	Outstanding Natural Features and Landscapes with a "high" and "medium" classification for their values.
Objective 3 *Safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems by:* *(a) Protecting Indigenous Biological Diversity Areas A,* *(b) Maintaining Indigenous Biological Diversity Areas B;* *(c) Promoting the maintenance of indigenous biodiversity in general; and* *(d) Enhancing or restoring indigenous biodiversity where appropriate.*	The activities identified are consistent with the intent to safeguard the coastal environment, and do not seek further loss of the extent or quality of coastal habitats within the receiving environments.
Objective 4 *Prevent the further loss of the quality and extent of rare and threatened habitats in the coastal environment of the region. These include coastal forest, seagrass beds, saltmarsh wetlands and sand dunes.*	
Policy NH 1 In relation to the natural heritage of the coastal environment, activities may be considered appropriate if they contribute to the restoration and rehabilitation of natural heritage or cultural values associated with natural heritage (including kaimoana resources and cultural landscape features), or if: *(1) They:* *(a) Are compatible with the existing built environment and level of modification to the environment. This includes but is not limited to:* *(i) Modification that is anticipated as a permitted or controlled activity in an operative District or City Plan; and* *(ii) Urban development activities and associated provision of quality open spaces in Urban Growth Areas contained in the Regional Policy Statement where urban development has been provided for in that area in the relevant District or City Plan, and the development is consistent*	Within the Coastal Environment the proposed activities include 'use' of the bed/bank of streams (this provides for disturbance associated with maintenance activities) and 'discharges' to both land and water. Within the Coastal Marine Environment, the proposed activity is the 'discharge' of stormwater to water. The stormwater network, its structures and assets are required because of the existing built environment specifically the urban environment and are compatible with the level of modification that has occurred. The network has a functional need to remain in the current location due to the existing land contours and the built environment. The form, scale and design of the network are appropriate for its purpose, location and existing landforms - both natural and built. Any disturbance effects caused by the installation of any part of the network has previously been assessed and considered appropriate. The

Relevant provision	Comment
with the Urban and Rural Growth Management Policies (UG policies) of the RPS; and *(a) Are compact, and do not add to sprawl or sporadic development; and* *(b) 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 exist; and* *(c) Are of an appropriate form, scale and design to be compatible with the existing landforms, geological features and vegetation or will only have temporary and short-term effects on such features; and* *(d) Will not, by themselves or in combination with effects of other activities, have significant adverse effects on the natural processes or ecological functioning of the coastal marine area; or* *(e) Involve the operation, maintenance, or upgrading of existing regionally significant infrastructure; and* *(2) They will not have unacceptable adverse effects on the values and attributes of an Outstanding Natural Feature and Landscape (ONFL), an area of Outstanding Natural Character (ONC) or an Indigenous Biological Area A (IBDA A) identified in Policy NH 5;* *Except that clauses (1)(a), (b), (d) and (e) of Policy NH 1 do not apply for the National Grid.*	Hamill Report assessed potential effects caused by the ongoing discharges and location of structures on water quality and ecological values. The proposal is to continue the operation and maintenance of Whakatāne's stormwater network, which is included within the RCEP definition of Regionally Significant Infrastructure.[25] The ongoing operation and maintenance will not have any unacceptable adverse effects on the values associated with either IBDA site.
Policy NH 5 Adverse effects must be avoided on the values and attributes of the following areas: *(a) Outstanding Natural Character areas (as identified in Appendix I to the RPS);* *(b) Outstanding Natural Features and Landscapes (as identified in Schedule 3);*	Discharges from the network all flow into the Whakatāne River. IBDA - A44 (Whakatāne Estuary) and A45 (Orini Estuary) are located within the floodplain of the Whakatāne River and include surrounding vegetation of value. Both features will receive stormwater from the network during storm events.

[25] Regionally Significant Infrastructure: *Is infrastructure of regional and/or national significance and includes:.* (Some text deleted*)*
. • Local authority wastewater and stormwater networks, systems and wastewater treatment plants.

Relevant provision	Comment
(c) Any Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1); and *Adverse effects must be avoided on taxa that meet the criteria listed in Policy 11(a)(i) or (ii) of the NZCPS.* *A summary of values and attributes for areas of Outstanding Natural Character is provided in Appendix J to the RPS. Values and attributes for Indigenous Biological Diversity Area A and Outstanding Natural Features and Landscapes are set out in Schedules 2 and 3 to this Plan respectively.*	The Hamill Report did not identify any adverse effects to the values or attributes of the identified IBDA sites that require further mitigations from the stormwater discharges. No further disturbance of either the Whakatāne or Orini estuaries is proposed. This includes the Keepa Road Conservation Area and the Piripai Wildlife Management Reserve, both identified as having biodiversity values partially protected under Policy 11(a)(vi) of the NZCPS in Schedule 2 of the RCEP.
Policy NH 6 When assessing the extent and consequence of any adverse effects on the values and attributes of the areas listed in Policy NH 5 and identified in Schedules 2 and 3 to this Plan and Appendix I to the RPS: *(a) Recognise the existing activities that were occurring at the time that an area was assessed as having Outstanding Natural Character, being an Outstanding Natural Feature and Landscape or an Indigenous Biological Diversity Area A;* *(b) Recognise that a minor or transitory effect may not be an unacceptable adverse effect;* *(c) Recognise the potential for cumulative effects that are more than minor;* *(d) Have regard to any restoration and enhancement of the affected attributes and values, and* *(e) Have regard to the effects on the tangata whenua cultural and spiritual values of ONFLs, working, as far as practicable, in accordance with tikanga Māori.*	The stormwater network has been developed alongside the growth of the Whakatāne township. The placement/construction of structures and associated discharges have all been authorised as required at the time under the relevant legislation. The majority of the network pre-dates the operative RCEP.
Policy NH 7 Consider providing for subdivision, use and development proposals that will adversely affect the values and attributes associated with the areas listed in Policy NH 5 where:	This application is for the ongoing operation and management of existing regionally significant infrastructure. As per the assessment in Policy NH 5, the Hamill Report did not identify any adverse effects to the values or attributes of the sites identified that require further mitigations from the stormwater discharges.

Relevant provision	Comment
(a) After an assessment of a proposal in accordance with Policy NH 6, transient or minor adverse effects on the attributes and values are found to be acceptable; or *(b) The proposal:* *(i) Relates to the operation, maintenance, or protection of existing regionally significant infrastructure or upgrading regionally significant infrastructure provided that the scale and intensity of any long term adverse effects of the proposal are the same or similar as those arising from the existing infrastructure; or…….*	This application does not seek to increase the scale or intensity of any long term effect from the existing infrastructure.
Policy NH 10 Areas of indigenous biodiversity in the coastal environment not identified in Schedule 2 contribute to the overall natural character of the environment and cumulative adverse effects on these areas should be avoided, remedied or mitigated.	
Policy NH 14 Recognise and provide for Māori cultural values and traditions when assessing the effects of a proposal on natural heritage, including by: *(a) Avoiding significant adverse effects, and avoiding, remedying, mitigating or offsetting other effects, on habitats of indigenous species that are important for traditional or cultural purposes;* *(b) and on cultural and spiritual values associated with natural features and natural landscapes;* *(c) Avoiding, remedying or mitigating cumulative adverse effects on the cultural landscape;* *(d) Assessing whether restoration of cultural landscape features can be enabled; and* *(e) Applying the relevant Iwi Resource Management policies from this Plan and the RPS.*	Consultation with TRONA has been ongoing and is anticipated to form part of the ongoing operation and maintenance of the network. Whilst the relevant Iwi Management Plan has been considered in this application, consultation seeks to better understand the desired outcomes from Ngāti Awa's perspective.
Policy NH 24 To maintain or enhance natural heritage values by encouraging landowners and the community to:	Through the proposed management tools, the Council will ensure the management of the stormwater network will maintain stormwater quality and where possible improve it.

Relevant provision	Comment
(a) Maintain or improve water quality in wetlands, estuaries and harbours, while recognising that wetlands themselves are natural water filtering systems; *(b) Maintain or improve the hydrological regime, including enhancing water quantity and flows, providing for flood retention, connectivity and fluctuations of water levels;* *(c) Maintain or improve aquatic and terrestrial indigenous biodiversity;* *(d) Maintain or enhance cultural values;* *(e) Maintain or enhance amenity values;* *(f) Retain natural landforms;* *(g) Covenant or otherwise protect significant landscape and natural character areas; and* *(h) Enhance ecological interconnections that are necessary to sustain indigenous species, including migratory routes.*	Ongoing monitoring will provide targeted feedback in relation to the success of delivering the objectives as detailed in the AEE.
Water Quality *Objective 8* *Discharges of contaminants to the coastal marine area are managed to meet the following goals:* *(a) After reasonable mixing, discharges of contaminants meet the water quality classification of the receiving water bodies as a minimum; and have no more than minor adverse effects on aquatic life, habitats, and recreational uses.* *(b) Discharges of contaminants occur in a manner that recognises and provides for the cultural values of mana whenua acknowledged for that area.* *(c) Cumulative effects of discharges are managed in a way that recognises the sensitivity and assimilative capacity of the receiving environment.* *Advisory note: 1 Policy CD 4 provides guidance on how to determine the radius of a reasonable mixing zone.*	The quality of stormwater discharges and the receiving environment have been reported and assessed. It can be concluded that the potential effects from discharges to the CMA have been assessed and are consistent with these objectives. Provision for cultural monitoring has been included within the proposed CMP, and the accumulative effects at the bottom of the catchment have been considered in the potential impacts of the stormwater discharge.
Objective 9	

Relevant provision	Comment
Prevent the discharge of persistent toxic contaminants into the coastal marine area.	
Objective 11 *Integrated and comprehensive management of stormwater within a catchment or sub-catchment framework.*	
Objective 12 *Minimisation of the risk of adverse environmental effects associated with the storage and use of hazardous substances within the coastal marine area.*	
Policy WQ 1 To manage land and water resources, including coastal waters, in the Bay of Plenty within an integrated catchment management framework that is consistent with Policy 21 of the Bay of Plenty Regional Water and Land Plan, Policies CE 10B, WL 2B, WL 3B, WL 4B, WL 5B, WL 7B and WL 8B of the RPS and gives effect to Policies 4, 21, 22, 23 and 24 of the NZCPS.	Where relevant these policies have been considered within this application under the identified policy statement, or plan.
Policy WQ 2 To take into account the recommended actions, objectives and policies of the following documents when making decisions on the management of land and water resources, including coastal waters, in the Bay of Plenty region: *(a) ..* *(e) Any relevant iwi or hapū resource management plan recognised by an iwi authority and lodged with the Regional Council.*	The relevant iwi management plan has been taken into account within this application.
Policy WQ 3 Manage stormwater in coastal catchments so that stormwater discharges do not cause estuarine and harbour water quality to fail the standards set in Schedule 10, or cause accumulation of contaminants in harbour or estuary sediment at levels which have significant adverse effects on marine life. The following techniques should be considered and applied where appropriate: *(a) Source control;* *(b) Integrated management of whole stormwater catchments;* *(c) Minimising the total area of impermeable catchment surfaces;* *(d) Maximising, to the extent practicable, disposal of stormwater to ground, except where this would cause flooding, instability or groundwater contamination;*	The impacts upon the Whakatāne River are assessed in the Hamill Report. If any breach of schedule 10 is to occur it would be limited in duration and if detected, can be controlled through appropriate maintenance and management actions. The ECOP, in conjunction with PPP, and the CMP (including the Objectives for the stormwater network) work collectively to direct the design and management of the network. Where appropriate and as far as practicable the stormwater network uses these techniques.

Relevant provision	Comment
(e) Minimising the possibility of cross contamination of stormwater systems with sewage; *(f) The installation of stormwater treatment devices in new or upgraded stormwater systems;* *(g) Ensuring that the layout of subdivision and services facilitates the retention and enhancement of riparian margins and wetlands; and* *(h) Development of new wetlands to assist with management of stormwater run-off.*	
Iwi Resource Management *Objective 13* *Take into account the principles of the Treaty of Waitangi and provide for partnerships with the active involvement of tangata whenua in management of the coastal environment when activities may affect their taonga, interests and values.*	Ngāti Awa hold a statutory acknowledgement over the Whakatāne River. Consultation to determine suitable outcomes is ongoing and it is anticipated direction from Ngāti Awa will inform the consent process ensuring the network and its discharges are consistent with these provisions as far as practicable.
Objective 14 *Tangata whenua are able to undertake customary activities in the coastal marine area, and access to sites used for cultural practices, gathering kaimoana, mahinga mātaitai and areas of cultural significance is maintained or enhanced.*	
Objective 15 *The recognition and protection of those taonga, sites, areas, features, resources, attributes or values of the coastal environment (including the Coastal Marine Area) which are either of significance or special value to tangata whenua (where these are known).*	
Objective 16 *The restoration or rehabilitation of areas of cultural significance, including significant cultural landscape features and culturally sensitive landforms, mahinga mātaitai, and the mauri of coastal waters, where customary activities or the ability to collect healthy kaimoana are restricted or compromised.*	
Objective 17	

Relevant provision	Comment
Where appropriate, cultural health indicators are used that recognise and express Māori values, and tangata whenua are involved in monitoring the state of the coastal environment and impacts of consented activities.	Consultation to determine suitable outcomes is ongoing and it is anticipated direction from Ngāti Awa will inform the consent process ensuring the network and its discharges are consistent with these provisions as far as practicable.
Objective 18 *Appropriate mitigation or remediation is undertaken when activities have an adverse effect on the mauri of the coastal environment, areas of cultural significance to tangata whenua or the relationship of tangata whenua and their customs and traditions with the coastal environment.*	
Policy IW 1 Proposals which may affect the relationship of Māori and their culture, traditions and taonga must recognise and provide for: *(a) Traditional Māori uses, practices and customary activities relating to natural and physical resources of the coastal environment such as mahinga kai, mahinga mātaitai, wāhi tapu, ngā toka taonga, tauranga waka, taunga ika and taiāpure in accordance with tikanga Māori;* *(b) The role and mana of tāngata whenua as kaitiaki of the region's coastal environment and the practical demonstration and exercise of kaitiakitanga;* *(c) The right of tāngata whenua to express their own preferences and exhibit mātauranga Māori in coastal management within their tribal boundaries and coastal waters; and* *(d) Areas of significant cultural value identified in Schedule 6 and other areas or sites of significant cultural value identified by Statutory Acknowledgements, iwi and hapū resource management plans or by evidence produced by tāngata whenua and substantiated by pūkenga, kuia and/or kaumatua; and.* *(e) The importance of Māori cultural and heritage values through methods such as historic heritage, landscape and cultural impact assessments.*	
Policy IW 2 Avoid and where avoidance is not practicable remedy or mitigate adverse effects on resources or areas of spiritual, historical or cultural significance to tāngata whenua in the coastal environment identified using criteria consistent with those included in Appendix F set 4 to the RPS. Where adverse effects cannot be avoided,	Consultation to determine suitable outcomes is ongoing and it is anticipated direction from Ngāti Awa will inform the consent process ensuring the network and its discharges are consistent with these provisions as far as practicable.

Relevant provision	Comment
remedied or mitigated, it may be possible to provide positive effects that offset the effects of the activity.	
Policy IW 4 The following shall be taken into account during decision-making: *(a) The consistency of the proposal with any iwi or hapū resource management plan recognised by an Iwi Authority and lodged with the Regional Council that applies to the area affected;* *(b) Recognition provided under any other legislation – including but not limited to: Treaty of Waitangi settlements; gazetting of Rohe Moana and Mātaitai under the* Kaimoana Customary Fishing Regulations 1998 *and the customary rights recognitions available under the* Marine and Coastal Area (Takutai Moana) Act 2011 *and* *(c) The principles of Te Tiriti o Waitangi (the Treaty of Waitangi), recognising that these will continue to evolve and be defined.*	
Policy IW 5 Decision makers shall recognise that only tāngata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. Those relationships must be substantiated for evidential purposes by pūkenga, kuia and/or kaumātua.	
Policy IW 6 Applications for coastal permits should include sufficient evidence of consultation with tāngata whenua likely to be affected by the proposed activity or those who otherwise have tribal jurisdiction over the location of the proposed activity. Tāngata whenua that may be affected by a proposal include those: *(a) That have mana moana or mana whenua over an affected area;* *(b) That are ahi kā;* *(c) That are landowners;* *(d) Groups that have recognition under other legislation; or* *(e) Tāngata whenua who have lived in an affected area for a long time*	
Policy IW 7 Where proposals are likely to have an adverse effect on the mauri of the coastal environment, then (where it is appropriate for consent to be granted) the	Consultation with Ngāti Awa has been ongoing and is anticipated to form part of the ongoing operation and maintenance of the network.

Relevant provision	Comment
consent authority shall consider imposition of consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mauri of the natural and physical resources of the coastal environment.	Whilst the relevant iwi management plan has been considered in this application, consultation seeks to better understand the desired outcomes from Ngāti Awa's perspective.
Policy IW 9 With regard to Policy IW 8, recognise that appropriate mitigation, remediation and offsetting may include, but is not limited to, the following: *(a) Restoring and protecting areas identified by tangata whenua as being of significant cultural or biodiversity value; habitat for taonga flora and fauna; or that are mahinga kai sites; or* *(b) Contributing resources (financial or otherwise) to environmental, social or cultural enhancement and improvement programmes run by affected tangata whenua; or* *(c) Providing structures associated with customary activities or access to resources of cultural value.*	
Coastal Hazards *Objective 20* *Coastal communities are aware of risks from natural hazards, and mitigation actions are in place to enhance the resilience of existing and future communities.*	The design of the stormwater network is cognitive of the hazards present within the surrounding environment and has been considered in sizing and design when designed and installed. These have been discussed in the AEE. Future land use changes or developments will also need to account for these hazards via any consent or plan process.
Objective 22 *Development is managed to recognise the future effects of climate change and to maintain or enhance the natural biological and physical processes which occur in the coastal environment.*	The stormwater network is behind stopbanks positioned on both sides of the Whakatāne River, the stormwater network serves to reduce the impact of flooding from stormwater within the catchments, it has a functional need to remain, with its existence and operation having a significant social and economic benefit to the Whakatāne community.

Relevant provision	Comment
Policy CH 5 When calculating sea level rise, the period to be considered is at least the next 100 years, and the following projections shall be used as minimal values: *(a) A projection of a base sea level rise of at least 0.6 metres (above the 1980-1999 average) for activities/ developments which are relocatable;* *(b) A projection of a base sea level rise of 0.9 metres (above the 1980-1999 average) for activities where future adaptation options are limited, such as regionally significant infrastructure and developments which cannot be relocated; and* *(c) An additional sea-level rise of 10 mm/annum for activities with life spans beyond 2112.*	The Council is required to consider the implication of these projections for stormwater assets through its short- and long-term planning processes.
Activities in the Coastal Marine Area *Objective 28* *The operation, maintenance and upgrade of existing regionally significant infrastructure, and transportation infrastructure that provides access to and from islands, is recognised and enabled in appropriate circumstances to meet the needs of future and present generations.*	As previously identified, the stormwater network is a regionally significant infrastructure. The Council seek to ensure the network is suitable to meet the needs of future and present generations.
Structures and occupation of space in the Coastal Marine Area (SO) *Policy SO 1 Recognise that the following structures are appropriate in the coastal marine area, subject to the Natural Heritage (NH) Policies, Iwi Resource Management Policy IW 2 and an assessment of adverse effects on the location:* *(a) Structures associated with activities that have a functional need to locate in the coastal marine area (including aquaculture); and* *(b) Structures associated with new and existing regionally significant infrastructure; or…….*	There is a functional need for parts of the network to exist in the CMA, the RCEP has provided a permitted rule to allow the existing structures to remain. The discharges from the network required ongoing consent.
Coastal discharges *Policy CD 1 Discharges to the coastal marine area must:* *(a) Avoid significant adverse effects, including cumulative effects, on aquatic life, habitats, feeding grounds, kaimoana (including shellfish gathering),*	All discharges to the Whakatāne River from the stormwater network downstream from the State Highway bridge are discharges to the CMA. The potential effects associated with stormwater discharges to the river are assessed in the Hamill Report.

Relevant provision	Comment
ecosystems, contact recreation and amenity values in the coastal marine area after reasonable mixing; *(b) Minimise adverse effects on the life-supporting capacity of water within the mixing zone;* *(c) Avoid the discharge of persistent toxic contaminants into the environment, and where avoidance cannot be practically achieved, the adverse effects of such discharges must be mitigated or remedied;* *(d) Avoid, remedy or mitigate adverse effects on the stability of the coastal environment, including localised erosion and scour resulting from the discharge;* *(e) Maintain or enhance the physical characteristics of receiving waters (including salinity) that contribute to their life-supporting capacity, including their ability to support indigenous flora and fauna and kaimoana beds; and* *(f) Be of a quality that has particular regard to:* *(i) The sensitivity of the receiving environment;* *(ii) The capacity of the receiving environment to assimilate contaminants; and* *(iii) The nature of the contaminants to be discharged, the concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded.*	This assessment has not assessed potential effects within the CMA in isolation; instead, it assesses effects to the river as whole. The ecological impacts of the stormwater discharge on the Whakatāne River are identified, with the ecological value of the river being identified as high, and the magnitude of any adverse effect resulting from the stormwater discharges being low. The Hamill Report recommended where possible limiting the discharges of copper and anti-fowling products to stormwater from boat repair/maintenance areas and any future marinas as a mitigation. The Hamill Report concludes the potential effect on water quality resulting from stormwater discharges to the Whakatāne River as negligible.
Policy CD 2 Apply the water quality classifications and standards contained in Schedule 10 to discharges to the coastal marine area, unless other standards can be demonstrated to be more consistent with the purpose of the Resource Management Act 1991. When existing water quality is significantly better than the classification standards, a higher standard will be applied to prevent degradation of existing water quality.	Stormwater discharges to the CMA are consistent with the standards in Schedule 10. Other standards more relevant to the water quality of the discharge have been used in the Hamill Report.

Relevant provision	Comment
Policy CD 4 To define the radius of a reasonable mixing zone in the conditions of a resource consent for the point source discharge of contaminants to coastal waters having regard to the following matters: *(a) Use of the smallest mixing zone necessary in order to minimise adverse effects on the life-supporting capacity of water within the mixing zone and achieve the required water quality standard of the receiving environment.* *(b) The water quality standard in Schedule 10 to this Plan.* *(c) The hydrological regime of the receiving water.* *(d) The ambient concentrations of contaminants in the receiving water.* *(e) Effluent discharge flow rate and contaminant concentrations.* *(f) Existing discharge and abstraction consents in the area affected by the proposed point source discharge.* *(g) The need to avoid significant adverse effects on ecosystems and habitats after reasonable mixing.* *(h) The values and existing uses of the area affected by the proposed point source discharge.* *(i) Māori cultural values (refer to Policy CD 6 and Iwi Resource Management policies).* *(j) Proximity to bathing sites.* *(k) Adverse environmental effects of the discharge, including cumulative effects in relation to (a) to (j).* *(l) The location of the discharge and position of the outfall.* *(m) Outfall diffuser design criteria.* *(n) Information provided by the applicant.* *(o) Any other information relevant to the nature of the discharge and the site characteristics.*	These matters have been considered in the draft SMP.
Policy CD 5 When considering measures to avoid, mitigate and remedy adverse effects on the coastal marine area, as a result of the discharge of contaminants, particular regard must be had to using alternative land based treatment and	Where practicable, land treatment, in-stream litter collection, discharge to land/soakage and other mitigating methods are used to assist in improving water quality and decreasing quantity of the discharges.

Relevant provision	Comment
disposal systems, where appropriate and environmentally sustainable and where socially, technically and economically feasible.	
Policy CD 6 To recognise and provide for the effects on the mauri of the receiving environment caused by the discharge of contaminants to the coastal marine area by: *(a) Promoting efficient use of water, including reuse and recycling of wastewater.* *(b) Discouraging disposal of toxic materials via wastewater systems.* *(c) Encouraging a shift to land based treatment and disposal systems, where appropriate and environmentally sustainable and socially, technically and economically feasible. This includes disposal of sewage by passage through land, soil or wetlands.* *(d) Avoiding, remedying or mitigating adverse effects on coastal resources or sites that are of significance to tangata whenua, where such resources or sites have been identified by tangata whenua.* *Also refer to Policies CD 9, CD 10 and CD 11.*	Through implementation of Council's Combined Waters Bylaw, site specific PPP and the CMP; stormwater runoff from high-risk sites will be managed to minimise contaminate load to the stormwater network. The discharge of wastewater is not included in this application. The draft SMP is designed to target specific areas and constituents to ensure stormwater quality is maintained.
Policy CD 7 To maintain a response capability with regard to unauthorised or accidental discharges or spills of contaminants into the coastal marine area.	BOPRC are equipped to respond to any leak or spill that reaches a water way or the CMA. The Council have a response plan for spills or leaks of contaminants within the stormwater network or catchment.
Additional policies relevant to stormwater discharges *Policy CD 15 Apply the policies and methods in Section 4.2 – Discharge of Stormwater of the Regional Water and Land Plan to encourage or require integrated and comprehensive stormwater management.*	An assessment of the proposed stormwater activities against the relevant provisions of the RNRP is included in section 9.4.5.2.
Policy CD 16 Require the appropriate management of stormwater quality to maintain, and where necessary enhance, water quality in the coastal marine area, including:	Through implementation of Council's Combined Waters Bylaw, site specific PPP and the CMP, stormwater runoff from high-risk sites will be managed to minimise contaminate load to the stormwater network.

Relevant provision	Comment
(a) The use of source controls to minimise the contamination and sediment loading of stormwater; *(b) The use of best practicable options to reduce the levels of contaminants and sediments entering coastal waters;* *(c) Treatment of stormwater prior to discharge when necessary to minimise the contamination and sedimentation of receiving environments; and* *(d) The prevention of inappropriate discharges of contaminants to stormwater systems.*	The draft SMP is designed to target specific areas and constituents to ensure stormwater quality is maintained. Where practicable, land treatment, in-stream litter collection, discharge to land/soakage and other mitigating methods are used to assist in improving water quality and decreasing quantity of the discharges.
Policy CD 18 Require monitoring of stormwater discharges to the coastal environment at a frequency that corresponds with the scale and significance of the effects of the discharge.	The draft SMP is designed specifically for the nature of the catchments, the land use, the receiving environments and the contaminants previously found following previous monitoring.
Policy CD 19 Include a review clause in resource consents for the discharge of stormwater to the coastal marine area where necessary to provide for progressive improvement to discharge quality in the future (including the defining of appropriate contaminant loads).	The Council anticipates the inclusion of a review clause within the consent conditions. In addition, the CMP will enable the Council to progressively review and improve the stormwater system in order to consistently achieve the objectives.
Policy CD 20 *(a) Where a stormwater discharge cannot meet the water quality classifications and standards contained in Schedule 10; or the Regional Council will consider allowing significant residual adverse effects to be offset.* *(b) Where a stormwater discharge has the potential after reasonable mixing to cause accumulation of contaminants in harbour or estuary sediment at levels that would have adverse effects on marine life that cannot be avoided; the Regional Council will consider allowing a biodiversity offset for residual adverse effects on marine life that are more than minor but not significant.*	The Hamill Report concluded that the potential effects of the stormwater discharge are generally consistent with Schedule 10.
Harbour Development Zone *Objective 45*	

Relevant provision	Comment
Facilities and activities developed in the Harbour Development Zone enable the community to provide for their social, cultural and economic wellbeing and promote the public enjoyment of the waterfront.	
Objective 47 *Use and development within the Harbour Development Zone maintains and enhances public access and the use and enjoyment of the coastal marine area, unless public access restrictions are necessary in relation to Policy 19(3) NZCPS.*	Part of the stormwater network exists within the Harbour Development Zone. Existing stormwater discharge consents cater to specific activities associated with this Zone.
Policy HD 2 Natural character values within the Harbour Development Zone are retained to the extent reasonable having regard to the purpose of the zone as set out in Policy HD 1.	The ongoing use of existing stormwater structures within the Harbour Development Zone are permitted under Rule SO 7 of the RCEP.
Rule HD 1 Permitted – Maintenance, minor alteration, repair or reconstruction of any lawful structure *The maintenance, minor alteration, repair or reconstruction of any existing lawful structure within the Harbour Development Zone, excluding electricity transmission lines, is a permitted activity, subject to the following conditions:* *(a) There shall be no increase in length, width or height of any structure, except for the purposes of:* *(i) Replacement, removal or alteration of existing aerial telecommunications structures or cables where these activities will comply with the New Zealand Standard (NZS 2772.1: 1999 Radiofrequency Fields Part 1: Maximum Exposure Levels 3 kHz to 300 GHz), and the new or altered cables will not be lower in height above the foreshore or seabed.* *(ii) Replacement, removal, alteration, or addition of telecommunications insulators, circuits, earth wires, earth peaks or lightning rods.* *(iii) Replacement or removal of bridge footpaths, bridge side rails, bridge road seal, bridge road signs, bridge road lighting, and cables or pipes attached to bridges.*	Any maintenance of structures within the Harbour Development Zone will comply with this Rule, any activities that cannot comply will require further consent and will be applied for if/when needed.

Relevant provision	Comment
(iv) Replenishment of existing rock armouring on structures associated with Existing River Schemes and Land Drainage Schemes where there is no increase in the height or length of the structure and the replenishment is consistent with the original design rock placement rate. *Any activity that does not meet the requirements of condition (a) will be considered as a controlled activity under Rule HD 3.* *(b) The building or structure shall not result in an increase in the level of the 1% annual exceedance probability (AEP) flood event within the Whakatāne or Waioeka/Otara river schemes.* *(c) Any alterations shall be structurally sound and constructed in accordance with good engineering practice.* *(d) Public access to, along and through the coastal marine area shall not be restricted, other than temporary restrictions during construction for reasons of public health and safety.* *(e) Alterations shall not be for the purposes of new or additional capacity for transport through the coastal marine area of sewage, petroleum products or hazardous substances.* *(f) The activity shall not damage or disturb a site listed in the Regional Historic Heritage Inventory in Schedule 7.* *For the avoidance of doubt, this rule covers:* *(i) The placement, alteration, extension or removal of structures.* *(ii) Occupation of space in the common marine and coastal area by the structure.* *(iii) Disturbance of the foreshore and seabed associated with the activity.* *(iv) Deposition of material in the coastal marine area associated with the activity.* *(v) Discharge of sediment to the coastal marine area resulting from maintenance or alteration of structures.*	

Summary

The stormwater network meets the criteria for being a Regionally Significant Infrastructure, and the stormwater discharges are consistent with the requirements set out in the relevant provisions of the RCEP. The network provides a pivotal role in servicing the surrounding modified urban environment and there is a functional need to retain the network in its current location. The proposed activities within the Coastal Environment and CMA are consistent with the provisions to the RCEP.

9.4.5.2 RNRP

The purpose of the RNRP is to promote the sustainable and integrated management of land and water resources within the Bay of Plenty. To achieve this, the RNRP has policies and methods (which include rules) to address issues of use, development and protection of land resources, geothermal resources and freshwater resources, including the beds and margins of water bodies.

The following objectives and policies are relevant to the application and activities requiring consent.

Table 15: Relevant provisions of the RNRP

Relevant provision	Assessment
KT O1 (Objective 1) The principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are recognised and taken into account in the management of water, land and geothermal resources.	The principles of the Treaty of Waitangi have been recognised and taken into account when preparing this application. See section 9.4.7.3 and this application's Section 8 assessment.
KT O4 (Objective 4) The water, land and geothermal concerns of tangata whenua are taken into account and addressed as part of resource management processes, while recognising that different iwi and hapu may have different concerns or practices.	Resource concerns of TRONA as tāngata whenua have been taken into account and addressed as best as can be achieved though the preparation of this application.
KT O5 (Objective 5) Water, land and geothermal resource management decisions have regard to iwi resource management planning documents.	The Ngāti Awa Environmental Plan – Te Mahere Whakarite Matatiki Taiao ō Ngāti Awa has been reviewed and is discussed in section 9.4.6.1. Early consultation with TRONA has occurred and is set to be ongoing.
KT O6 (Objective 6) Maintain the biological and physical aspects of the mauri of water, land and geothermal resources; and where practicable achieve the ongoing improvement of the biological and physical aspects of the mauri where it has been degraded, as it relates to: *(a) Water quality meeting the specified water quality classifications.*	

Relevant provision	Assessment
(b) Water flows not breaching the instream minimum flow requirements. *(c) The life-supporting capacity of soils are sustained.* *(d) Protection of geothermal surface features identified by, and of special value to tangata whenua.*	
KT P1 (Policy 1) To recognise that tangata whenua, as indigenous peoples, have rights protected by the Treaty of Waitangi (Te Tiriti o Waitangi) and that consequently the Act accords Māori a status distinct from that of interest groups and members of the public. *KT P2 (Policy 2) To take into account the principles of the Treaty of Waitangi in the management of land, water and geothermal resources.* *KT P3 (Policy 3) To encourage tangata whenua to identify their particular requirements to address sections 6(e), 7(a) and 8 of the Act, in relation to their ancestral lands (rohe), sites or resources, and mauri.* *KT P5 (Policy 5) To ensure that resource management issues of concern to tangata whenua are taken into account and addressed, where these concerns are relevant and within the functions of the Regional Council.*	The proposed location of the CSC is within the rohe of Ngāti Awa. An assessment of the proposed activities under the Ngāti Awa Environmental Plan has been undertaken. Consultation with TRONA was initiated early in the development of this CSC application and is ongoing.
KT P10 (Policy 10) To identify the extent of cultural values associated with rivers, streams, lakes, wetlands, geothermal resources and land, where this is considered appropriate by tangata whenua.	Issues of concern raised to date have been considered within the proposed application and consent conditions. Adaptive conditions for cultural monitoring have been proposed.
KT P11 (Policy 11) To recognise and provide for the mauri of water, land and geothermal resources when assessing resource consent applications.	
KT P14 (Policy 14) To consult tangata whenua on water, land and geothermal resource management issues according to the requirements of the Act, tikanga Māori methods of consultation, and in a manner consistent with case law.	Consultation with TRONA was initiated early in the development of this CSC application and is ongoing

Relevant provision	Assessment
KT P15 (Policy 15) To consult all appropriate tangata whenua holding mana whenua in circumstances where rohe (tribal boundaries), or areas of ancestral or historic interest overlap.	
KT P17 (Policy 17) To: *(a) Take into account iwi resource management planning documents, when preparing or changing a regional plan, where such documents exist.* *(b) Have regard to iwi resource management planning documents when considering resource consent applications, where such documents exist.*	Outcomes from consultation will be used to inform this consent application and associated consent documents, including the CMP and draft SMP.
KT P18 (Policy 18) To avoid, remedy or mitigate adverse effects on water, land and geothermal resources or sites of spiritual, cultural or historical significance to tangata whenua, where these resources and sites have been identified by tangata whenua.	
KT P19 (Policy 19) To encourage tangata whenua to recommend appropriate measures to avoid, remedy or mitigate the adverse environmental effects of the use and development of water, land and geothermal resources.	Consultation with TRONA was initiated early in the development of this CSC application and is ongoing.
KT P20 (Policy 20) To assess effects of proposed development activities on the cultural and historic values and sites of water, land and geothermal resources in consultation with tangata whenua.	
Integrated management *IM O3 (Objective 13) The water quality in rivers and streams is maintained or improved to meet the Water Quality Classifications set in the Water Quality Classification Map, and the following environmental outcomes:* *(a) Natural State (Lake) Water Quality Classification - the natural quality of the water shall not change.* *(b) Natural State (River) Water Quality Classification - the natural quality of the water shall not change.* *(c) Managed State (Lake) Water Quality Classification - the water quality in the lake shall not deteriorate.*	Schedule 9 Water Quality Classifications of the receiving water bodies are identified in Table 2. Analysis of monitoring data from these water bodies is provided in the Hamill Report, which concluded *"…most of the stormwater discharges currently have "Low" or "Very Low" overall effects because of either the small amount of stormwater input to the waterway, or the currently poor ecological values of the waterway, or both. The lower Wainui Te Whara Stream and Awatapu Lagoon had overall "moderate" ecological effects. The*

Relevant provision	Assessment
(d) Aquatic Ecosystem (Bay of Plenty) Water Quality Classification - water quality shall be sufficient to support diverse and healthy aquatic ecosystems. *(e) Contact Recreation Water Quality Classification - water quality shall be sufficient to allow contact recreational uses.* *(f) Water Supply Water Quality Classification - water quality shall be sufficient to allow for municipal water supply purposes, while recognising water treatment may still be required.* *(g) Drains with Ecological Values Water Quality Classification - water quality shall be sufficient to support aquatic ecosystems, while recognising that aquatic ecosystems in such areas are limited.* *(h) Regional Baseline Water Quality Classification - water quality shall not deteriorate.*	*overall effects on Sullivan Lake might also be considered "moderate" if the amenity values of the lagoon are weighted".*
IM O4 (Objective 14) The water quality of lakes and bathing sites on rivers and streams listed in Schedule 10 is maintained at a level suitable for swimming.	This application seeks to replace existing consents. The application does not seek to further impact the receiving environment beyond what is currently consented. Bathing water quality is further discussed under IM P1 (Policy 21) below.
IM O7 (Objective 22) Recognition of the beneficial effects of the use and development of water, land and geothermal resources on the social, cultural and economic wellbeing of people and communities.	
IM P1 (Policy 21) To manage land and water resources in the Bay of Plenty within an integrated catchment management framework to: *(a) ...* *(b) …* *(c) ...* *(d) Maintain or improve water quality in streams and rivers to meet their Water Quality Classification.*	Effects on Water Quality Classifications are discussed under Policy IM 03 (RNRP). The conclusions also relate to coastal waters. Schedule 10 (RNRP) identifies the Whakatāne River-Landing Road Bridge as the only bathing site potentially effected by stormwater discharges. The Hamill Report noted that "*the lower reaches of the [Whakatāne] river do not meet microbial water quality guideline for swimming with a grading of "poor", although the site is generally acceptable for swimming during*

Relevant provision	Assessment
(e) Have full regard to the water quality classifications for coastal waters (including harbours and estuaries), and policies relevant to the coastal environment in the Bay of Plenty Regional Coastal Environment Plan. *(f) Recognise and provide for heritage values in resource management decisions.* *(g) ….* *(h) …* *(i) Ensure the levels of bacteria in those rivers and streams that have been identified as important swimming sites and in lakes in Schedule 10 meet the Ministry of Health/Ministry for the Environment Recreational Water Quality Guidelines (1999) as a minimum.* *(j) Understand the effects of changing land cover and land use practices on water flows and levels in rivers, streams, lakes.* *(k) …* *(l) Manage land and water resources according to realistic management goals that are appropriate to the existing environmental quality and heritage values (including ecosystem values) of the location.*	*baseflow conditions (median E. coli of 105 cfu/100mL, 95 percentile of 2800 cfu/100mL).”* Water quality of the Whakatāne River is heavily impacted by upstream land use, drainage networks, and urban development. The management approach proposed seeks to maintain the environmental and heritage values associated with the receiving water bodies.
IM P1A The loss of river extent and values is avoided, unless the council is satisfied: *(a) that there is a functional need for the activity in that location; and* *(b) the effects of the activity are managed by applying the effects management hierarchy.* *For the purposes of this policy, effects management hierarchy and loss of value have the meaning given by the National Policy Statement for Freshwater Management 2020.*	The network provides a pivotal role in servicing the surrounding modified urban environment and there is a functional need to retain the network in its current location and capacity. The application does not seek to further impact on the extent of rivers/streams lost to reclamation or similar. Information has been provided to describe the current effects upon the values of identified waterways, along with further mitigations to avoid impacting these values.
IM P8 (Policy 32) To allow resource use and development where there are beneficial effects on the social, cultural and economic wellbeing of people and communities; and adverse effects on the environment are avoided, remedied or mitigated.	The design and management of the stormwater network has been based around protecting the social and economic needs of the Whakatāne communities by providing a drainage service to better protect property from surface flooding.

Relevant provision	Assessment
	The design of the network seeks to protect and where possible enhance the natural character of the coastal environment. Through the CMP process the Council seek to further adopt enhancement work to ensure the amenity and associated values of the coastal environment are appropriate for future generations.
IM M10 (Method 56) When considering resource consent applications, assess the: *(a) Natural character,* *(b) Outstanding natural features and landscapes,* *(c) Significant indigenous vegetation and significant habitats of indigenous fauna,* *(d) Māori cultural values,* *Historic heritage, of an activity site on a case by case basis using the requirements in the Bay of Plenty Regional Policy Statement.*	The design of the network seeks to protect and, where possible, enhance the natural character. Through the CMP process, the Council seeks to further adopt enhancement work to ensure the amenity and associated values of the coastal environment are appropriate for future generations. Potential effects on the IBDA identified in the RCEP have been previously assessed against provisions in the RCEP. Whilst provisions for specific cultural indicators have been included within the CMP, the Council has not completed the consultation process and intend to forward further outcomes from consultation to BOPRC.
Land Management *LM O3 (Objective 19) Protect vulnerable areas from erosion.*	The stormwater network and its discharge outlets are designed to prevent erosion as far as practicable.
Discharges to Water and Land *DW O1 (Objective 23) Discharges of contaminants to water are managed to meet the following goals:* *(a) After reasonable mixing, discharges of contaminants to lakes, streams and rivers meet the water quality classification of the receiving water bodies as a minimum; and have no more than minor adverse effects on heritage values, existing users in downstream areas, and lakes, harbours and estuaries.* *(b) Discharges of contaminants to water are in a manner that takes into account the cultural values of tangata whenua acknowledged for that area.*	The Hamill Report commented on the effects of stormwater discharges and associated contaminants. From this report it can be concluded that overall, the stormwater discharges are managed to goal (a). Ongoing consultation with TRONA is occurring to determine the most suitable manner take into account cultural values.

Relevant provision	Assessment
DW O3 (Objective 25) Prevent the accumulation of persistent toxic contaminants in the environment, particularly in lakes, estuaries and harbours and their catchments.	The proposed management practices, controls and monitoring of stormwater seek prevent the accumulation of toxic contaminants within the harbour.
DW O4 (Objective 27) Discharges of water to water avoid, remedy or mitigate adverse effects on the environment as appropriate to the values, uses and existing environmental quality of the activity site.	
DW O8 (Objective 30) Integrated and comprehensive management of stormwater within a catchment or sub-catchment framework, where practicable.	The proposed operation and management of the stormwater network is largely consistent with the identified objectives. This is discussed further in the policies below.
DW O9 (Objective 31) Improvement, where necessary, to the quality of stormwater discharged to the environment.	
DW O10 (Objective 32) Erosion and scour caused or exacerbated by stormwater discharges is avoided, remedied or mitigated.	
DW O11 (Objective 33) The volume of stormwater from urban areas and other sources that utilise stormwater systems that discharge to streams, rivers and lakes is minimised.	
DW O12 (Objective 34) Streams and rivers are not used as treatment systems for contaminated stormwater.	
DW O13 (Objective 35 Stormwater is discharged to land, where appropriate.	Due to the nature of the underlying soils and water table in the Whakatāne township, discharge of stormwater to land is difficult in many places. In the Whakatāne North SC, there are areas with disposal to land (sandy soils) where it is appropriate.
DW O15 (Objective 37) Stormwater discharges avoid, remedy or mitigate adverse effects on the ecological, natural character, landscape, recreational, and Māori cultural values of streams, rivers and lakes.	
DW P1 (Policy 38) Discharges of contaminants to water are to comply with the following requirements:	The Hamill Report concluded that the discharge of stormwater has overall minimal impact upon the water quality or ecological values of the receiving

Relevant provision	Assessment
Table DW 1 Contaminant Discharge Requirements *(a) Lakes […]* *(b) Rivers and streams* *(i) Discharges of contaminants to streams and rivers with Water Supply or Natural State (river) water quality classifications are avoided where practicable.* *(ii) Discharges to rivers and streams are to:* o *Meet the water quality classification of the stream or river after reasonable mixing.* o *Avoid, remedy or mitigate adverse effects on heritage values and existing users in downstream areas. This may include consideration of appropriate mixing methods for the discharge.* *(iii) …* *(iv) For discharges to rivers and streams that flow directly to the open coast, or are tributaries of harbours and estuaries, the effect on the water quality of coastal waters will be given full regard. This includes cumulative effects.* *(v) For discharges to streams that are not shown on the 1:50,000 Water Quality Classification Maps, the discharge shall comply with the Regional Baseline water quality classification as a minimum, subject to an assessment of the appropriate water quality classification in accordance with IM M26. Where the assessment determines an appropriate water quality classification, the discharge will be considered relative to the higher water quality classification.* *(vi) Where a river or stream has more than one water quality classification along its length, a discharge will be assessed relative to the water quality classification at the point of discharge, as shown on the Water Quality Classification map.* *(vii)…*	environments. This has included consideration of the Water Quality Classification assigned to the water bodies. The draft CMP has taken into account the significance of the various water bodies and includes monitoring for cultural indicators and a process to determine the appropriate indicators and ways to monitor them. The Hamill Report proposed further mitigations where practicable to ensure adverse effects are suitable avoided or mitigated.

Relevant provision	Assessment
DW P2 (Policy 39) To require contingency plans for the prevention, detection, containment and remediation of unauthorised discharges of any hazardous substance which may adversely affect water quality, or result in the long-term contamination of soil or groundwater.	The Council via its Combined Waters Bylaw 2017 implements PPP relevant to individual premises and the potential risks posed by material stored/used onsite. These PPP may require a spill response to be stipulated if deemed appropriate to the site.
DW P5 (Policy 42) To recognise and provide for the effects on the mauri of the receiving environment caused by the discharge of contaminants to water by: *(a) Where appropriate, encouraging early and ongoing consultation with tangata whenua during the consideration of wastewater treatment systems to take into account the cultural values of tangata whenua acknowledged for that area.* *(b) Where reasonable and practicable to do so, take steps to promote better use of freshwater by discouraging disposal of toxic materials via wastewater systems.* *(c) Encouraging a shift to land based treatment and disposal systems, where appropriate and environmentally sustainable and socially, technically and economically feasible. This includes disposal of sewage by passage through land, soil or wetlands.* *(d) Avoid, remedy or mitigate adverse effects on water, land and geothermal resources or sites that are of significance to tangata whenua, where such resources or sites have been identified by tangata whenua.* *(e) Avoiding physical degradation of the life-supporting capacity of receiving waters.*	Consultation with TRONA commenced early and is expected to be ongoing through the consent process and the life of the consent.
DW P6 (Policy 43A) When considering any application for a discharge the consent authority must have regard to the following matters: *(a) the extent to which the discharge would avoid contamination that will have an adverse effect on the life-supporting capacity of fresh water including on any ecosystem associated with fresh water; and*	The Hamill Report assessed the potential effects associated with stormwater discharges to the Whakatāne River and other identified streams**.** This has included effects on water quality, effects resulting from operation and management, and overall ecological effects.

Relevant provision	Assessment
(b) the extent to which it is feasible and dependable that any more than minor adverse effect on fresh water, and on any ecosystem associated with fresh water, resulting from the discharge would be avoided; and *(c) the extent to which the discharge would avoid contamination that will have an adverse effect on the health of people and communities as affected by their contact with fresh water; and* *(d) the extent to which it is feasible and dependable that any more than minor adverse effect on the health of people and communities as affected by their contact with fresh water resulting from the discharge would be avoided.* *This policy applies to the following discharges (including a diffuse discharge by any person or animal):* *(a) a new discharge; or* *(b) a change or increase in any discharge – of any contaminant into fresh water, or onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering fresh water.* *Paragraph 1 parts a. and b. of this policy do not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management takes effect on 1 July 2011. Paragraph 1 parts c. and d. of this policy do not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management 2014 takes effect on 1 August 2014.* *Note: This policy was inserted to meet the requirements of the National Policy Statement for Freshwater Management 2011. Note: This policy was amended to meet the requirements of the National Policy Statement for Freshwater Management 2014 and National Policy Statement for Freshwater Management 2014 (amended in 2017).*	The Hamill Report used bathing water standards to assess potential impacts on recreational water users. No shellfish monitoring data was available from within the Whakatāne River. The Hamill Report stated the effect of the Whakatāne stormwater on microbial water quality in the shellfish gathering areas would be very small due to the small catchment area compared to the river, but incremental. The Hamill Report concluded *"that most of the stormwater discharges currently have "Low" or "Very Low" overall effects because of either the small amount of stormwater input to the waterway, or the currently poor ecological values of the waterway, or both. The lower Wainui Te Whara Stream and Awatapu Lagoon had overall "moderate" ecological effects, but there is considerable potential to mitigate these effects and possibly achieve net benefits*." Any future land development and stormwater contribution (outside of the defined catchments) to be included into the stormwater network will have to go through its own design and consenting process before being included into the CSC and associated CMP. The proposed process is included in section 8.3 of this application.

Relevant provision	Assessment
DW P9 (Policy 47) To avoid, remedy or mitigate the adverse effects of discharges of water to water on: *(a) Flooding.* *(b) Any relevant Māori cultural values.* *(c) Stability of the beds and banks of the receiving water body.* *(d) Ecological values.*	0 provides results from modelling to determine the performance of the stormwater network in specified storm events. The output of the modelling indicates likely surface flooding depths within the catchment during the corresponding design event. Structures associated with the stormwater network and any modifications to the bed/bank of a water body were designed to maintain stability of the bed/bank so as to avoid or mitigate against erosion. Through the CSC and associated CMP, it is anticipated that the Council will be required by conditions of consents to ensure were possible any future erosion is avoided or mitigated and remedied when necessary. The Hamill Report identified the ecological impacts of the stormwater discharge on the Whakatāne River and associated water bodies, stating the ecological value of the Whakatāne River was high, and that the magnitude of any effect resulting from stormwater was low.
DW P10 (Policy 48) To encourage, as appropriate, discharge activities to comply with current best engineering practices and best practicable options to avoid or mitigate adverse effects on the environment so that the requirements of this regional plan and other Regional Council requirements are met. Best engineering practices are relevant where the scale, intensity and potential adverse effects require such engineering practices.	Where practicable, land treatment, in-stream litter collection, discharge to land/soakage and other mitigating methods are used to assist in improving stormwater quality and decreasing quantity of the discharges. Managing the network through the CMP and using outputs from the draft SMP will better assist the Council to identify any performance issues within the network, and to investigate suitable solutions
DW P11 (Policy 49) To set a reasonable mixing zone in conditions of resource consents to discharge contaminants to water where relevant, having regard to the criteria specified in DW M16.	Sampling locations and contaminants of interest are proposed within the draft SMP. Development of the draft SMP has had regard to the criteria specified in DW M13.
DW P14 (Policy 50) To encourage city and district councils and roading authorities to plan, design, construct and maintain urban stormwater management systems within an integrated and comprehensive framework that:	Through implementation of Council's Combined Waters Bylaw, site specific PPP and the CMP, stormwater runoff from high-risk sites will be managed to ensure onsite management and controls minimise contaminate load to the

Relevant provision	Assessment
(a) Avoids or mitigates adverse effects on rivers, streams, wetlands and aquatic ecosystems. *(b) Considers the total stormwater catchment, or sub-catchment as appropriate, including the interaction between different land uses in the catchment, and the effects of the discharge flow rate and volume on the existing hydrological system.* *(c) Retains or establishes appropriate vegetation adjacent to natural water bodies, riparian margins and wetlands wherever practicable.* *(d) Avoids the use of natural waterways as treatment systems for contaminated stormwater.* *(e) Where necessary, improves the quality of stormwater discharged to the environment.* *(f) Minimises the quantity of urban stormwater discharged to streams, rivers and lakes.* *(g) Avoids, and where practicable and achievable remedies, the adverse effects on aquatic habitats from the piping of small streams and modified watercourses.*	stormwater network. In addition, the draft SMP is designed to target specific areas and constituents to ensure stormwater quality is maintained. Managing and monitoring of the existing stormwater network through the CMP and associated documents will allow the Council to operate and maintain the network in an integrated and comprehensive manner that is consistent with parts (a)-(g) of Policy DW P14.
DW P15 (Policy 51) To require the appropriate management of stormwater quality, including: *(a) The use of source controls to avoid the contamination of stormwater.* *(b) The use of best practicable options.* *(c) Treatment of stormwater to prevent the contamination of receiving environments.*	The Council has described how stormwater quality will be managed via the CMP and its proposed monitoring and mitigations. The CMP will ensure stormwater management includes the outcomes (a), (b) and (c) as listed in this policy.
DW P17 (Policy 53) To require city and district councils to maintain records of stormwater systems and inputs to these systems in areas where there is a high risk of stormwater contamination to assist the identification of the source(s) of stormwater contamination.	Details of the existing stormwater network and its associated structures have been included in Appendix 1.

Relevant provision	Assessment
DW P18 (Policy 54) To require stormwater discharge rates and volumes, and stormwater discharge outlet structures, to be designed and managed to avoid or mitigate erosion and scour.	Discussed further under policies: DW M42, M43 and M44 of the RNRP
DW P19 (Policy 55) To encourage the minimisation of the volume of stormwater runoff discharged to the environment from urban areas.	
DW P21 (Policy 57) Where appropriate to the environmental limitations of the site, encourage the discharge of stormwater to land.	
DW M9 (Method 108) Require a contingency plan for the management of hazardous substances where a resource consent is required for: *(a) A discharge of contaminants to water,* *(b) A discharge of contaminants to land where the contaminant or its byproducts may enter water, or* *(c) A discharge of contaminants to land, and the contaminant is a hazardous substance that poses or is likely to pose an immediate or long-term hazard to human health or ecosystems.*	On-site management of hazardous substances within properties is covered under the District Plan and the Council's Combined Waters Bylaw 2017. The Council will implement these provisions to promote appropriate storage, handling and site management according to the substances present. Spills in public areas are usually first detected via BOPRC's Pollution Hotline. BOPRC usually takes responsibility for containing and cleaning up the spill with the Council responsible for tracking the source and any further mechanisms to contain any further spread. Targeted monitoring via the draft SMP is also designed to pick up issues resulting from poor management of hazardous substances.
DW M16 (Method 115) Define the length or radius of a reasonable mixing zone in the conditions of a resource consent for the point source discharge of contaminants to a surface water body having regard to the following assessment criteria: *(a) The best practicable option to minimise the length or radius of the reasonable mixing zone.* *(b) The water quality classification of the receiving water body (refer to the Water Quality Classification Map), and the relevant water quality classification standard in Schedule 9.* *(c) The flow regime of the receiving water.*	DW M16 has been given effect to in the formation of the proposed SMP included as Appendix 3**.**

Relevant provision	Assessment
(d) The ambient concentrations of contaminants in the receiving water. *(e) Effluent discharge flow rate and contaminant concentrations.* *(f) Existing discharge and abstraction consents.* *(g) Fish migration and aquatic ecosystems requirements.* *(h) The values and existing uses of the water body.* *(i) Māori cultural values (refer to DW P5).* *(j) Proximity to bathing sites, especially those listed in Schedule 10.* *(k) Adverse environmental effects of the discharge, including cumulative effects in relation to (a) to (j).* *(l) The location of the discharge and position of the outfall.* *(m) Outfall diffuser design criteria.* *(n) Information provided by the applicant.* *(o) Any other information relevant to the nature of the discharge and the site characteristics.*	
DW M39 (Method 135) Require the city council and district councils to apply for comprehensive stormwater catchment or sub-catchment consents (Comprehensive Stormwater Consents) for areas that have been identified as priority catchments by the Regional Council in conjunction with city and district councils (e.g. in the Stormwater Strategy for the Bay of Plenty Region).	The Council has given effect to this method through its consent application to BOPRC for a CSC to replace the existing consents for its stormwater network and discharges.
DW M40 (Method 136) Advocate the city council and district councils to develop long-term stormwater planning strategies that: *(a) Address the adverse environmental effects of stormwater on water quality, natural hydrological systems, and aquatic habitats.* *(b) Integrate urban planning and the provision of stormwater infrastructure for present and future urban growth.* *(c) Include catchment based approaches to stormwater management.* *(d) Take into account the need to protect identified sensitive ecological* *(e) Address the different management issues for residential, commercial, industrial and roading stormwater.*	The Council has developed its own documents and process to manage its stormwater network. **Figure 3** of this application depicts how the Council envisages the relevant documents work together to guide management of the network. The various processes and mitigating actions collectively give effect to the provisions (a)-(h) of this method.

Relevant provision	Assessment
(f) Address appropriate stormwater management and treatment. *(g) Identify and map existing stormwater systems and areas where there is a high risk of stormwater contamination, and maintain accurate records of inputs of potentially contaminated stormwater into these systems.* *(h) Monitoring of discharges to stormwater systems.*	
DW M42 (Method 138) Encourage stormwater systems to be designed, constructed and maintained to appropriate design standards that are consistent with the requirements of this regional plan, and the principles of Low Impact Design (as described in DW M23 and DW M24).	In managing the stormwater network the Council uses the ECOP and BOPRC Hydrological and Hydraulic Guidelines along with relevant engineering design standards. It is expected any new developments will also use the same principles.
DW M43 (Method 139) Encourage use of innovative methods to manage and treat stormwater to appropriate standards before it is discharged to streams, rivers, lakes and coastal waters. This includes, but is not limited to, swales, infiltration systems, wetlands, and other stormwater management and treatment methods that are appropriate to the site and individual circumstances	Various techniques are employed within the current network to treat and filter stormwater before discharging. Results from the proposed targeted monitoring and sampling will guide future management of the network, future testing and development of internal treatment options may be required. Managing the network via the CMP will promote the investigation and adoption of suitable solutions in response to issues identified via the monitoring.
DW M44 (Method 140) Encourage stormwater to be retained on-site and discharged to land soakage where this is practicable and environmentally sustainable.	District Plan provisions guide land development and building permits within the catchment boundary. Stormwater neutrality is strongly promoted and required where feasible.
Contaminated Land *DW O16 (Objective 38) The significant adverse effects of existing contaminated land are remedied or mitigated.*	
DW P23 (Policy 59) To use nationally accepted environmental and health guidelines, standards for soil and water contamination, and standards for discharges from contaminated land, when undertaking contaminated land investigations in order to determine whether a site poses a significant risk of adverse effects.	Disturbance of contaminated land may be required in specified locations to undertake maintenance activities. Provisions exist within the NEC-CS to enable maintenance activities if required. Any disturbance will be consistent with the relevant provisions.

Relevant provision	Assessment
DW P24 (Policy 60) To use processes under the Act or any other legislation to ensure that any potential adverse effects caused by remediation or disturbance of contaminated land are avoided, remedied or mitigated.	Adverse effects associated with any disturbance will be suitably avoided or mitigated. The methodology proposed in section 2.4.5.3 of this application requires the submission of a DSI to BOPRC for review before any disturbance can occur.
Beds of Water Bodies *BW O1 (Objective 55) Aquatic ecosystems, aquatic habitats of indigenous species, spawning areas and migratory pathways of fish, and significant aquatic vegetation are maintained and enhanced.*	
BW O3 (Objective 57) Adverse effects on fish passage and migration along rivers and streams is avoided, remedied or mitigated.	
BW O3A The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.	An assessment of the aquatic ecosystems associated with the stormwater network, and identification of specific areas where further mitigation to improve fish passage is required, is provided in Appendix 2.
BW O5 (Objective 59) Structures in, on, under or over the beds of streams, rivers and lakes are: *(a) Designed to commonly accepted design standards (including flood design standards) in relation to the use and location of the structure.* *(b) Constructed to a standard to withstand flood events.* *(c) Designed and used to account for natural lake level fluctuations.*	
BW P1 (Policy 98) To require activities in the beds of rivers, streams and lakes to be undertaken in a comprehensive and integrated manner that recognises and provides for the water quality, water quantity (including flood hazards), soil conservation, aquatic ecosystem issues in the water body, and areas of significant natural character.	Management of the stormwater network as proposed will ensure the entire network is managed in a comprehensive and integrated manner, utilising the SMP in conjunction with the CMP to monitor and adapt the management and future design requirements of the system accordingly.
BW P2 (Policy 99) All new activities in the beds of streams, rivers and lakes, reconstruction of existing structures, re-planting of plants, and existing activities upon renewal of consents, are required to comply with the following: ***(TABLE BW2)***	The operation and maintenance of the stormwater network and its structures is designed to ensure that the requirements of Table BW 2 are satisfied via design and maintenance.

Relevant provision	Assessment
BW P3 (Policy 100) To avoid, remedy or mitigate adverse effects on aquatic ecosystems, the aquatic habitats of indigenous fauna, important trout habitats, and fish migration. This is to be achieved by designing, planning, constructing or undertaking, and maintaining activities to: *(a) Avoid undertaking significant instream bed disturbance activities at spawning sites during relevant spawning periods of fish species present in the water body.* *(b) Avoid, remedy or mitigate the adverse effects of instream works on:* *(i) The aquatic habitats of indigenous aquatic fauna and flora, including spawning sites.* *(ii) The important aquatic habitats of trout, including spawning sites.* *(c) Provide for fish passage for migration, recruitment, and habitat range in areas where there are no natural barriers to fish passage. Where fish passage is necessary it is not to be impeded by new structures, or beyond the duration of any instream works. Manual transference will be considered to be the provision of fish passage for existing structures.* *(d) Remediate aquatic habitat characteristics at the activity site that have been degraded by the activity, except where restoration or enhancement of aquatic habitats at other locations is more appropriate.*	The Hamill Report includes comment on future mitigations to improve fish passage and habitats within the stormwater network. Where these mitigations relate to replacing/upgrading structures, these will need to be considered and approved via the Council's LTP process before being undertaken.
BW P4 (Policy 101) New structures in, on, under or over the beds of rivers, streams and lakes, and the reconstruction of existing structures, are to be designed, constructed and maintained to comply with the requirements of BW P2 and BW P3, and the following environmental standards: *(a) Designed to flood design standards that are appropriate to the Bay of Plenty region (refer to BW M6), and to the site of the structure. This does not apply to flood control structures (refer to WQ R15 and BW R1).* *(b) Designed, constructed and maintained to appropriate standards to:* *(i) Withstand flood events.*	At the time of installation, stormwater structures were designed according to the relevant engineering and design principles. Modelling has been undertaken to identify how the entire network performs. The Council will use the modelling outcomes to target areas that require improvement in capacity and/function. The modelling considered climate change within the design storm events.

Relevant provision	Assessment
(ii) Ensure the integrity of the structure is maintained for its specified use. *(c) Located, designed, constructed and used a manner that accounts for the effect of natural lake water level fluctuations. For the purpose of this regional plan, gabion baskets and rock riprap are considered to be structures.*	

Summary

From the assessment of the proposed activity against the relevant objectives and policies of the RNRP, the ongoing use, maintenance and replacement of the stormwater network and its associated structures, and the stormwater discharges are consistent with policy direction.
The proposed methodologies for monitoring and managing the network will ensure diverse effects where possible are avoided, or suitably remedied and mitigated through appropriate controls and actions. The use of adaptive management will ensure that these controls and actions are able to evolve in response to monitoring results and management reviews.

9.4.6 Other matters

9.4.6.1 Ngāti Awa Environmental Plan

Ngāti Awa released an iwi management plan document, Ngāti Awa Environmental Plan – Te Mahere Whakarite Matatiki Taiao ō Ngāti Awa ("**NAEP**"), in late 2019. The NAEP identifies various objectives and policies relating to issues that their rohe faces. These have different target audiences, such as the Ministry for the Environment, BOPRC, the Council, Ōpōtiki District Council, resource consent applicants, land owners, etc.

Policy IW 4B of the RPS also seeks to "ensure that iwi and hapū resource management plans are taken into account in resource management decision making processes".

Ngāti Awa consider 'taking into account' to mean that the NAEP has been read, has been acknowledged, and has made a tangible difference within the planning process, including the Council decision-making process.

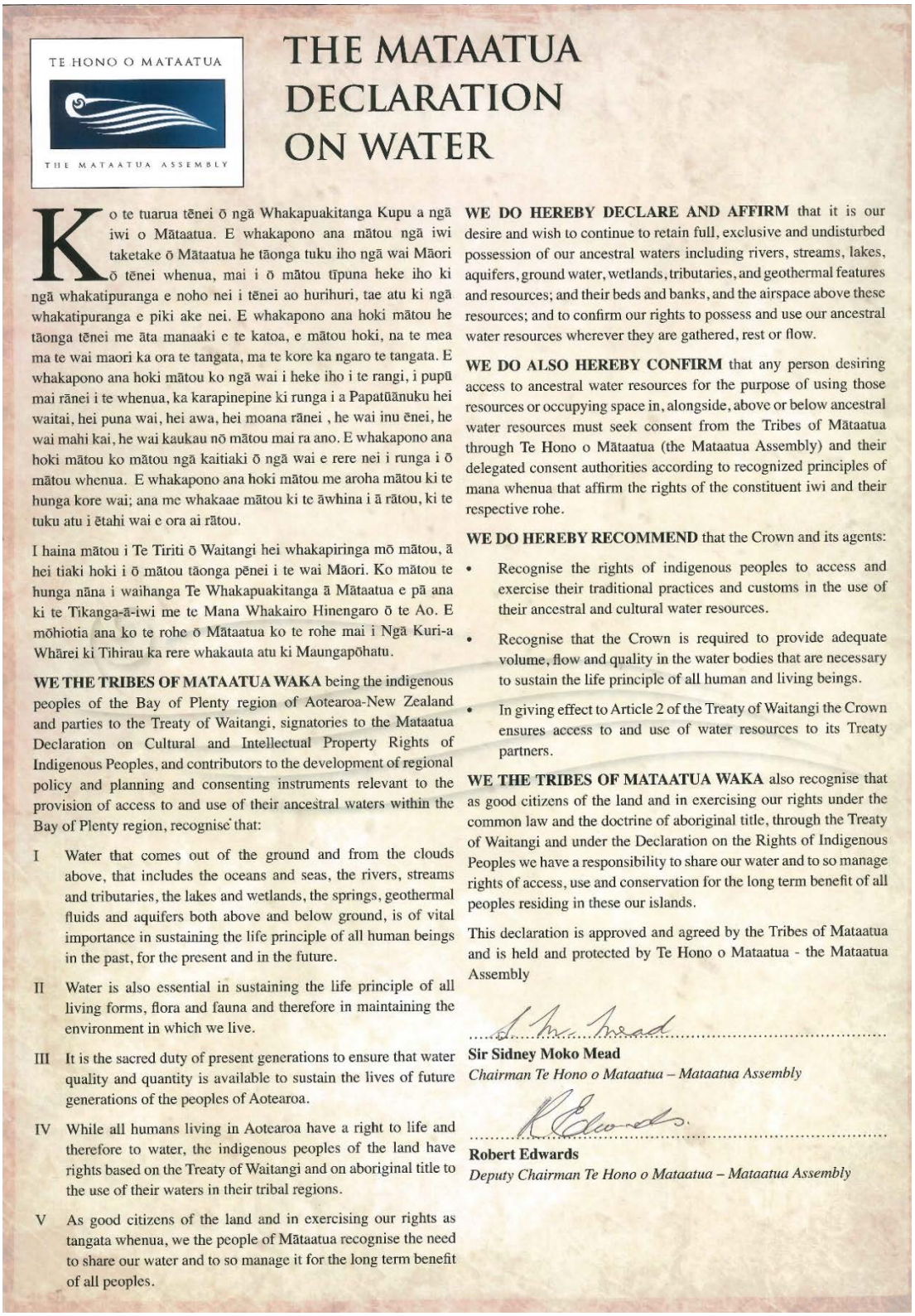
Below is some background information and commentary on the objectives and policies that have been identified as being potentially relevant to this resource consent application, and the position of the resource consent application in relation to them.

9.4.6.2 Mataatua Declaration on Water 2012

The Mataatua Declaration on Water 2012 ("**MDW**") relates to freshwater and geothermal management and affirms their desire for full, exclusive and undisturbed possession of ancestral waters. The MDW was ratified by Mataatua Iwi in 2012 and reconfirms that Mataatua Iwi wish to retain full, exclusive and undisturbed rights over access to, and use of, water within their tribal regions. The MDW recognises, amongst others, that:

- "Water is essential in sustaining the life principle of all living forms…and maintaining the environment in which we live.
- It is the sacred duty of present generations to ensure that water quality and quantity is available to…sustain the lives of future generations.
- Indigenous people have rights based on the Treaty of Waitangi and aboriginal title.
- …the people of Mataatua recognise the need to share our water and to so manage it for the long term benefit of all peoples."

The MDW, seen in Figure 40, establishes Ngāti Awa's rights and interests to water. The MDW forms part of the NAEP, and as such, needs to be taken into account in resource management plans and decisions.



TE HONO O MATAATUA

THE MATAATUA ASSEMBLY

THE MATAATUA DECLARATION ON WATER

Ko te tuarua tēnei ō ngā Whakapuakitanga Kupu a ngā iwi o Mātaatua. E whakapono ana mātou ngā iwi taketake ō Mātaatua he tāonga tuku iho ngā wai Māori ō tēnei whenua, mai i ō mātou tīpuna heke iho ki ngā whakatipuranga e noho nei i tēnei ao hurihuri, tae atu ki ngā whakatipuranga e piki ake nei. E whakapono ana hoki mātou he tāonga tēnei me āta manaaki e te katoa, e mātou hoki, na te mea ma te wai maori ka ora te tangata, ma te kore ka ngaro te tangata. E whakapono ana hoki mātou ko ngā wai i heke iho i te rangi, i pupū mai rānei i te whenua, ka karapinepine ki runga i a Papatūānuku hei waitai, hei puna wai, hei awa, hei moana rānei , he wai inu ēnei, he wai mahi kai, he wai kaukau nō mātou mai ra ano. E whakapono ana hoki mātou ko mātou ngā kaitiaki ō ngā wai e rere nei i runga i ō mātou whenua. E whakapono ana hoki mātou me aroha mātou ki te hunga kore wai; ana me whakaae mātou ki te āwhina i ā rātou, ki te tuku atu i ētahi wai e ora ai rātou.

I haina mātou i Te Tiriti ō Waitangi hei whakapiringa mō mātou, ā hei tiaki hoki i ō mātou tāonga pēnei i te wai Māori. Ko mātou te hunga nāna i waihanga Te Whakapuakitanga ā Mātaatua e pā ana ki te Tikanga-ā-iwi me te Mana Whakairo Hinengaro ō te Ao. E mōhiotia ana ko te rohe ō Mātaatua ko te rohe mai i Ngā Kuri-a Whārei ki Tihirau ka rere whakauta atu ki Maungapōhatu.

WE THE TRIBES OF MATAATUA WAKA being the indigenous peoples of the Bay of Plenty region of Aotearoa-New Zealand and parties to the Treaty of Waitangi, signatories to the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples, and contributors to the development of regional policy and planning and consenting instruments relevant to the provision of access to and use of their ancestral waters within the Bay of Plenty region, recognise that:

I Water that comes out of the ground and from the clouds above, that includes the oceans and seas, the rivers, streams and tributaries, the lakes and wetlands, the springs, geothermal fluids and aquifers both above and below ground, is of vital importance in sustaining the life principle of all human beings in the past, for the present and in the future.

II Water is also essential in sustaining the life principle of all living forms, flora and fauna and therefore in maintaining the environment in which we live.

III It is the sacred duty of present generations to ensure that water quality and quantity is available to sustain the lives of future generations of the peoples of Aotearoa.

IV While all humans living in Aotearoa have a right to life and therefore to water, the indigenous peoples of the land have rights based on the Treaty of Waitangi and on aboriginal title to the use of their waters in their tribal regions.

V As good citizens of the land and in exercising our rights as tangata whenua, we the people of Mātaatua recognise the need to share our water and to so manage it for the long term benefit of all peoples.

WE DO HEREBY DECLARE AND AFFIRM that it is our desire and wish to continue to retain full, exclusive and undisturbed possession of our ancestral waters including rivers, streams, lakes, aquifers, ground water, wetlands, tributaries, and geothermal features and resources; and their beds and banks, and the airspace above these resources; and to confirm our rights to possess and use our ancestral water resources wherever they are gathered, rest or flow.

WE DO ALSO HEREBY CONFIRM that any person desiring access to ancestral water resources for the purpose of using those resources or occupying space in, alongside, above or below ancestral water resources must seek consent from the Tribes of Mātaatua through Te Hono o Mātaatua (the Mataatua Assembly) and their delegated consent authorities according to recognized principles of mana whenua that affirm the rights of the constituent iwi and their respective rohe.

WE DO HEREBY RECOMMEND that the Crown and its agents:

- Recognise the rights of indigenous peoples to access and exercise their traditional practices and customs in the use of their ancestral and cultural water resources.
- Recognise that the Crown is required to provide adequate volume, flow and quality in the water bodies that are necessary to sustain the life principle of all human and living beings.
- In giving effect to Article 2 of the Treaty of Waitangi the Crown ensures access to and use of water resources to its Treaty partners.

WE THE TRIBES OF MATAATUA WAKA also recognise that as good citizens of the land and in exercising our rights under the common law and the doctrine of aboriginal title, through the Treaty of Waitangi and under the Declaration on the Rights of Indigenous Peoples we have a responsibility to share our water and to so manage rights of access, use and conservation for the long term benefit of all peoples residing in these our islands.

This declaration is approved and agreed by the Tribes of Mataatua and is held and protected by Te Hono o Mataatua - the Mataatua Assembly

Sir Sidney Moko Mead
Chairman Te Hono o Mataatua – Mataatua Assembly

Robert Edwards
Deputy Chairman Te Hono o Mataatua – Mataatua Assembly

Figure 40: Mataatua Declaration of Water 2012

Table 16: NAEP Objectives and Policies

Relevant provision	Assessment
Objective 1 Te Mana o Te Wai is recognised in freshwater management, planning and decisions. This means that the: a. first right to the water goes to the health of the water body; then, b. second right to the water goes to the health of the environment; then, c. third right to the water goes to the people.	The NPS-FM 2020 contains six overarching principles of Te Mana o Te Wai. An assessment of the proposed activities against the NPS -FM has been completed earlier in this application. The CSC seeks to provide for the conveyance and discharge of stormwater from within the identified SCs to the Whakatāne River. The intent of the management of the stormwater network is to, where practicable, avoid adverse effects or ensure these potential effects on the water body are mitigated through suitable actions.
Objective 2 Freshwater management, planning and decisions must a. recognise Ngāti Awa values, interests and Mātauranga. b. recognise the 2012 Mataatua Declaration of Water. c. value our intergenerational knowledge and role as a Treaty partner. d. afford greater priority to the natural limits of our rivers, streams and groundwater aquifers.	Consultation with TRONA commenced prior to this CSC application being lodged with BOPRC. It is envisaged that engagement will continue through this consent application process and the life of the consent. The proposed mitigations identified within the document provide a pathway for adaptive management that is able to take into account the intergenerational knowledge that TRONA has while applying their values in the context of the need for the public good.
Objective 3 An integrated and holistic approach is taken to freshwater management, planning and decisions, particularly in relation to the linkages between: a. freshwater quantity and quality. b. land use, freshwater quantity and freshwater quality. c. freshwater, stormwater and wastewater.	This CSC takes into account activities from proposed land uses permitted by the District Plan and other legislation (such as the NES-PF or NES-TF) to discharges to the Whakatāne River and ultimately the CMA. Throughout this process, there is an adaptative adaptive management approach: should new technologies or methodologies arise, there is scope for these to be implemented at various stages of the network within the catchment area.
Objective 4 No further degradation of water quality within our rohe.	Through the use of adaptive management as proposed within the CMP, the Council will manage and monitor the existing network and its discharges, ensuring stormwater discharges do not cause water quality within the receiving environment to further degrade.
Objective 5 Ensure that our aspirations for marae, papakāinga and/or land development are not unfairly disadvantaged by freshwater reforms, policies and rules.	The CSC will not result in this occurring. It is a catchment management tool, and should new rules or policies be applied through the planning process, it is likely this will affect the catchment or wider areas, rather than site specific rules.

Relevant provision	Assessment
Objective 6 Encourage collective responsibility for the efficient and responsible use of water across all sectors within our rohe. This includes, but is not limited to: a. Large volumes of water taken and used for municipal, agricultural, horticultural or industrial purposes. b. Large volumes of water used for hydroelectric power generation purposes.	This application does not seek to take or use water. In the CMP, it has been identified that there are various areas to prioritise for encouraging water reuse or attenuation across the CSC's area at a domestic and collective scale.
Policy 6.1.1: Work with the TRONA Taiao Unit to determine how, in practice: a. Te Mana o Te Wai; and, b. The Mataatua Declaration of Water; and; c. Ngāti Awa values, interests and intergenerational knowledge Is to be recognised within freshwater planning and decisions.	Consultation with TRONA was commenced prior to this CSC application being lodged with BOPRC, it is envisaged that engagement will continue through the life of the consent. Input has been sought in relation to proposed conditions and adaptive management aspects associated with the CMP.
Policy 6.1.2: Ngāti Awa objects to the: a. allocation of water for bottling and export. b. disposal of contaminants, particularly wastewater and stormwater, directly into natural waterways. c. mixing of water from different sources.	There has been significant amount of research done and produced with this CSC application to provide a pathway forward to reduce the discharge of contaminants into the Whakatāne River, and waterways within the catchment area. This will be ongoing through the adaptive management approach of the CSC.
Policy 6.1.3: Ngāti Awa seeks restrictions on water permit transfers where the transfer may negatively impact Ngāti Awa lands.	This application does not seek to obtain any permit to take or use water, nor to transfer any right to take or use water.
Policy 6.1.4: TRONA consider themselves an affected party under Section 95E of the RMA for all resource consent applications: a. within, adjacent to, or impacting directly our statutory acknowledgement areas. b. to take or transfer surface water within our rohe. c. to take or transfer groundwater within our rohe. d. to discharge contaminants to water or to land, in circumstances where it may enter water.	While the Council has requested public notification, engagement with TRONA regarding this application has been undertaken.
Policy 6.1.5: Invest in further research and investigations so that robust information is available for decision making. This includes understanding the potential impacts of climate change on freshwater management (including stormwater and wastewater management).	Through the adaptive management approach, there is scope for new technologies or methodologies to be implemented within the network where deemed appropriate.

Relevant provision	Assessment
Policy 6.1.6: Work with the TRONA Taiao Unit regarding plans, bylaws or strategies relating to, or affecting, freshwater (including stormwater and wastewater). This is to: a. identify ways in which the development of Māori Land can be enabled, to give effect to Policy IW 1B of the Regional Policy Statement. b. ensure that marae and papakāinga water supplies are not adversely affected by the allocation of freshwater. c. ensure early and meaningful involvement with Water Management Area processes. d. ensure that Water Management Plans, developed as a resource consent requirement for municipal water supply takes, take into account water requirements for marae and papakāinga (where applicable) within respective districts.	Consultation with TRONA commenced prior to this CSC application being lodged with BOPRC and will continue through the consent process. Through the proposed consent conditions, it is envisaged that engagement will also continue through the life of the consent.
Policy 6.1.7: Promote and encourage: a. additional treatment and/or alternative disposal methods of b. wastewater and stormwater such as the use of new technology, land based disposal or the use of wetlands. c. innovative solutions to remedy the long-term effects of discharges on the historical, cultural and spiritual values of freshwater. d. incorporation of stormwater design elements to assist the migration of freshwater fish within waterways.	The activities and infrastructure within the scope of this CSC is existing. Significant scientific work has been undertaken to develop a record of existing baseline information and, where possible, historic information. The CSC aims to have performance-based measures associated with it. Further, as noted earlier, being able to utilise adaptive management will mean that the Council is able to improve the ultimate environmental standards associated with the CSC. Through the adaptive management approach, should new technologies or methodologies arise, there is scope for these to be implemented.
Policy 6.1.8: Afford weight to cultural values when assessing: a. the costs and benefits of alternative treatment and disposal methods of wastewater and stormwater. b. or preparing, resource consent applications for wastewater and stormwater discharges	Consultation has been ongoing through the preparation of this application to better understand cultural values connected with the existing stormwater network. It is envisaged that future decisions associated with stormwater designs or any new discharge/s will also be required to consider these values appropriately.
Policy 6.1.9: Require water storage and low impact design features for new subdivisions (e.g. rainwater and greywater capture for external use). This is to reduce pressure on municipal water supplies, particularly during the summer months.	The Council is generally supportive of this, though, with the nature of the CSC, limited areas of new subdivisions are occurring, and the Plan's standards are applicable until they are altered.

Relevant provision	Assessment
Policy 6.1.10: Pursue opportunities to create and/or maintain mutually beneficial working relations	Proposed conditions and the CMP seek regular input from TRONA. The Council wishes to continue to develop beneficial working relationships in order to develop better outcomes from the management of the stormwater network.
Objective 7 Land use planning, management and decisions must: a. recognise Ngāti Awa values, interests and Mātauranga. b. value our intergenerational knowledge and role as a Treaty partner. c. be integrated to recognise the linkages between land use, freshwater quantity and freshwater quality. d. provide for the sustainable and productive use and/or development of Māori Land and Treaty Settlement Land.	Land use is generally controlled through the District Plan within the CSC's applicable area and so is generally out of scope, unless the CMP identifies matters which should be improved upon in that document.
Objective 8 Greater collective responsibility and integrated management to ensure that land use and development within our rohe: a. is sustainable and consistent with the natural limits of our lands and waters. b. does not compromise the productive capacity of our soils or life supporting capacity of our environment.	Any new development/s to be adopted within the CSC and CMP will first need to have gained the required resource consent/s (and any associated Plan Change/s), these consents will involve appropriate consultation with TRONA
Policy 6.2.1: Work with the TRONA Taiao Unit to determine how, in practice Ngāti Awa values, interests and intergenerational knowledge is to be recognised within land use planning. This includes: a. integrating kaitiakitanga into statutory management of ancestral taonga and natural resources within the Ngāti Awa rohe. b. identifying ways in which the development of Māori Land can be enabled, to give effect to Policy IW 1B of the Regional Policy Statement relating to the use and development of Māori Land. c. ensuring that the use and development of Māori land and/or Treaty Settlement Lands is not unfairly disadvantaged water allocation, water quality or nutrient limits.	Ongoing engagement with the TRONA has occurred in relation to this application. This is envisaged to continue and to influence the CMP and the desired outcomes.
Policy 6.2.2: Recognise the principle of interconnectedness or "ki uta ki tai" (from the mountains to the sea). This include[s] the localised and cumulative effects of land use and development on:	There has been significant amounts of research into the Whakatāne River, and associated stormwater discharges. Through this, a holistic approach is required to ensure quality environmental outcomes and standards for the CMP to achieve.

Relevant provision	Assessment
a. the health of our rivers, streams, aquifers and associated habitats and ecosystems. b. the health of our coastal and estuarine environments, particularly our kaimoana. c. our cultural heritage and identity. d. the cultural, social and economic wellbeing of our people	
Policy 6.2.4: TRONA consider themselves an affected party under Section 95E of the RMA for all resource consent applications: within, adjacent to, or impacting directly our statutory acknowledgement areas. a. to discharge contaminants to land. b. relating to contaminated soils. c. relating to earthworks, particularly within 100m of a marae, or Cultural Heritage Site (scheduled in a District Plan or within the NZ Archaeological Association database).	The Council has requested public notification, which inadvertently short circuits the Notification Steps process as identified under Section 95-95E of the RMA. The applicant has treated TRONA as a limited notified party, proactively engaging with them on the CSC and associated process.
Objective 12 Coastal planning, management and decisions to: a. recognise Ngāti Awa values, interests and Mātauranga. b. value our intergenerational knowledge and role as a Treaty partner. c. be integrated to recognise the linkages between land use, freshwater quality and coastal water quality.	Early engagement and consultation with TRONA has been undertaken with this application and ongoing engagement is envisaged to occur in relation to activities within the CMA and Coastal Environment
Objective 13 Protect and enhance: a. the mauri of our coastal and marine areas. b. Our natural resources and associated cultural practices, particularly in relation to mahinga mataitai, taonga raranga and tauranga ika.	Through the adaptive management approach of the CMP, there is the ability for proactive, reactive and remedial actions to be taken with the objective of protecting and enhancing the mauri and qualities of these resources.
Objective 14 Protect our cultural heritage sites from inappropriate coastal use and development.	The proposal is necessary to the effectiveness and viability of the Whakatāne Township from an operational standpoint. Through the adaptive management approach of the CMP, there is the ability for proactive, reactive and remedial actions to be taken with respect to cultural heritage sites, and that any future development that desires to be incorporated within the CMP will need to achieve the CMP's standards and outcomes.

Relevant provision	Assessment
Policy 6.4.1: Recognise the principle of interconnectedness or "ki uta ki tai" (from the mountains to the sea) in particular, the cumulative effects of all activities within a catchment on: the health and wellbeing of our coastal and marine areas, including our kaimoana. our cultural heritage, practices and identity.	There has been significant amounts of research into the Whakatāne River, and associated stormwater disposal to it. Through this, a holistic approach is required to ensure quality environmental outcomes and standards for the CMP to achieve.
Policy 6.4.2: Work with the TRONA Taiao Unit to determine how, in practice our values, interests and intergenerational knowledge is to be recognised within coastal planning. management and decisions. This includes integrating kaitiakitanga into statutory management of ancestral taonga and natural resources within our rohe.	Ongoing engagement with the TRONA has occurred in relation to this application. This is envisaged to continue and to influence the CMP and the desired outcomes.
Policy 6.4.3: TRONA consider themselves an affected party under Section 95E of the RMA for all resource consent applications: within, adjacent to, or impacting directly our statutory acknowledgement areas. relating to the occupation and use of coastal space. relating to structures in the coastal marine area. relating to earthworks, particularly within 100m of a marae, or Cultural Heritage Site (scheduled in a District Plan or within the NZ Archaeological Association database).	While the Council has requested public notification, engagement with TRONA regarding this application has been undertaken.
Policy 6.4.4: Ngāti Awa objects to the discharge of contaminants, particularly wastewater and stormwater, into coastal waters.	The CSC has areas where stormwater disposal is into the CMA. The infrastructure for this is generally existing, and there is limited practical opportunities for alternative options. These can and will be explored as part of the adaptive management approach proposed within the CSC.
Policy 6.4.5: Ensure access and use of the coastal environment for customary activities and practices.	Infrastructure associated with this CSC is generally existing. The infrastructure does not overly obstruct the ability for customary activities and practices to be undertaken. Further, the associated discharges will be under constant review, associated with the adaptive management approach, to remedy impacts associated with customary activities and practises where possible.
Policy 6.4.7: Develop a Ngāti Awa monitoring programme to measure the health of coastal and marine health from a cultural point of view.	Monitoring of cultural indicators associated with the stormwater network has been proposed within the CMP.
Policy 6.4.8: Progress the application for Customary Marine Title and Protected Customary Rights under the Marine and Coastal Area (Takutai Moana) Act 2011.	The Council is aware that Ngāti Awa have an application for Marine Title in relation to the Whakatāne River. This may have implication for existing infrastructure specifically the stormwater network located within the area claimed. The title

Relevant provision	Assessment
	process is via a separate piece of legislation and as such has not been considered within provisions under the RMA.
Objective 18 Restore and enhance our freshwater and ocean fisheries.	The CSC provides a framework for the maintenance and long-term enhancement of the freshwater and environment(s) within, and thus seeks to further restore flora and fauna within these environments. Through adaptive management, new objectives and technologies may arise that further accelerate or aid in the enhancement of aquatic life, further mitigating potential adverse effects from the network.
Policy 6.6.1: Recognise the principle of interconnectedness or "ki uta ki tai" (from the mountains to the sea) in particular, the cumulative effects of all activities within a catchment on: the health and wellbeing of our coastal and marine areas, including our kaimoana. our cultural heritage, practices and identity.	There has been significant amounts of research into the Whakatāne River, and associated stormwater disposal to it from the catchments of the CSC. Through this, a holistic approach is required to ensure quality environmental outcomes and standards for the CMP to achieve. The principal of interconnectedness or "ki uta ki tai" is acknowledged and has been taken into account when preparing this application.
Policy 6.6.4: Ensure access and use of the coastal environment for customary activities and practices.	Infrastructure associated with this CSC is generally existing. The infrastructure does not overly obstruct the ability for customary activities and practices to be undertaken. Further, the associated discharges will be under constant review, associated with the adaptive management approach, to remedy any found impact associated with customary activities and practises.
Policy 6.6.6: Pursue opportunities to create and/or maintain mutually beneficial working relationships with regards to research, restoration and management of indigenous fish species.	The Council has committed to adopting the mitigations proposed in the Hamill Report to improve fish passage where practicable. It is envisaged good working relationships with community and Ngāti Awa will assist in prioritising these efforts.
Objective 20 We are aware, prepared for, and resilient to, natural hazards and the effects of climate change. This means that: • We understand the risks of natural hazards and potential impacts of climate change within our rohe. • We understand the role of Councils and other agencies in managing and/or reducing these risks and impacts. • We know how to prepare and/or adapt.	Natural hazards (including those resulting from the impacts of climate change) have been considered as part of this application, and it acknowledged that the Whakatāne Township is subject to an unusually high number of hazards. Care is required when undertaking development within the environment and wider district context.

Relevant provision	Assessment
• In the case of a natural disaster, what know what to do.	A Whakatāne urban stormwater modelling report is provided with this application in Appendix 4 which summarises the findings of modelling various scenarios, such as 1% AEP storm events.
Objective 21 Climate change considerations are embedded within Central and Local Government strategies, plans and policies.	The flood modelling provided with this application takes into account climate change to the RCP6.5 scenario.
Objective 22 Climate change and natural hazard research, management, planning and decisions must: a. recognise Ngāti Awa values, interests and Mātauranga. b. value our intergenerational knowledge and role as a Treaty partner.	The natural hazards information contained within this application is highly science based, but this does not disregard information provided by TRONA.
Policy 7.1.2w: Strategies, plans, policies and decisions must consider the impacts of climate change and the risks associated with natural hazards on our cultural and social wellbeing, in particular: a. Sites and areas of cultural significance, including our marae and urupā. b. Indigenous species and ecosystems, particularly our mahinga kai resources. c. Our aspirations for, and challenges with, the use and development of Māori Land. d. Roading infrastructure and access to our marae, papakāinga and urupā. e. Food security and sovereignty.	Natural hazards (including those resulting from the impacts of climate change) have been considered as part of this application, and it acknowledged that the Whakatāne Township is subject to an unusually high number of hazards.
Policy 7.1.4: Require a precautionary approach is taken to enabling development along coastal areas and floodplains, particularly in relation to sea level rise and flood risk.	While not necessarily relevant to this CSC application, the District Plan contains various rules that take these matters into account, and control where and how development can occur.
Policy 7.1.6: Build community awareness and understanding about: a. Natural hazards and climate change. b. How climate change may affect our lands and buildings, particularly our marae, urupā and homes. c. How to prepare and what to do if a natural disaster occurs. d How to adapt and prepare for the impacts of climate change. d. Measures - by each agency – to: • encourage the reduction in carbon emissions.	With the adaptive management principles of the CMP, this will provide for an additional measure for building community awareness to natural hazards and those of climate change affecting their properties, and environment. The CMP will be able to adjust to new information and science and be proactive in nature to hazards where possible.

Relevant provision	Assessment
• mitigate and/or adapt to climate change (particularly those agencies with regulatory and infrastructure functions).	
Policy 7.1.8 Collate research and carry out a stock take to identify and map: a. The location of our marae, urupā and other areas of significance within our rohe. b. areas at particular risk of flooding/inundation, erosion, slips and sea level rise.	The report included as Appendix 4 identifies areas that are at a varying degree of risk from surface flooding during low AEP events.
Objective 23 Biodiversity management, planning and decisions to: a. recognise Ngāti Awa values, interests and Mātauranga. b. value our intergenerational knowledge and role as a Treaty partner.	
Objective 24 Restore and enhance the health and diversity of ecosystems and habitats within our rohe for our taonga flora and fauna species. This includes: a. cooler and vegetated waterways and wetlands. b. corridors of healthy interconnected indigenous vegetation and ecosystems. c. the containment or removal of pests. d. abundant birds and other fauna. e. healthy and abundant mahinga kai resources.	The CSC's approach to adaptive management may mean that various enhancement works will proceed associated with LTP cycles. This may result in the creation or enhancement of existing ecological pathways, and associated biodiversity projects. With the ongoing engagement with TRONA on this CSC, both parties will have the ability to provide for and be involved with these works.
Policy 7.2.1: Work together to manage biosecurity threats and coordinate planning, monitoring and reporting within our rohe. This includes: a. Collaborating with research agencies in relation to existing or future monitoring programmes. b. Utilising Mātauranga-based monitoring tools. c. Incorporating citizen science (e.g. monitoring by tangata whenua or members of the public). For the purpose of clarity, this policy relates to terrestrial, freshwater and marine biosecurity threats.	There is a requirement for ongoing monitoring with the sites involved with this CSC. In association with this, there will be species monitoring where biosecurity threats (such as invasive species) could be observed as part of routine monitoring.
Policy 7.2.4 Promote the creation and/or connection of ecological pathways for our indigenous flora and fauna comprising corridors of ngahere, wetlands, riparian margins and other habitats. This should be prioritised as follows: a. From our upper catchments to the coast. b. Connecting fragmented habitats within, and across, catchments.	The CSC's approach to adaptive management may mean that various enhancement works will proceed associated with LTP cycles. This may result in the creation or enhancement of existing ecological pathways.

Relevant provision	Assessment
Policy 7.2.6: Develop a Ngāti Awa monitoring programme to measure the health of our indigenous flora and fauna from a cultural point of view.	When this monitoring programme is developed, it can be reviewed as part of the CMP review process to see how or if it can be implemented. Until that time, conditions are proposed to ensure that TRONA has scope for input to the adaptive management and review process, specifically monitoring of cultural indicators.
Objective 25 Our cultural heritage is protected from the impacts of land use and development. In particular, our waahi tapu are afforded the highest level of protection from damage, destruction and modification.	
Objective 26 Cultural heritage planning and management and decisions relating to land use and development: a. recognises Ngāti Awa values, interests and Mātauranga. b. values our intergenerational knowledge and role as a Treaty partner. c. enable active involvement of Ngāti Awa.	The applicant acknowledges this, which is why early engagement and consultation has been undertaken in relation to this application. The infrastructure associated with this CSC is generally existing in nature. As proposed in this application and the CMP, the Council envisages engagement and meaningful discussion to be ongoing through the life of this consent.
Objective 27 Active protection of sensitive information relevant to waahi tapu and waahi taonga from inappropriate use.	As part of this application, no new information wi/th respect to waahi tapu and waahi taonga, has been divulged.
Policy 9.1.1 Only Ngāti Awa can identify and substantiate our relationship and that of our culture and traditions with our ancestral lands, water, sites, waahi tapu and other taonga.	The Council acknowledges that Ngāti Awa are the information holders for this knowledge.
Policy 9.1.3 Require early consultation with Ngāti Awa to ensure that resource consent, concession or archaeological authority applicants: a. are aware of the cultural and historical significance of an area, to which their application relates. b. are aware of the presence of waahi tapu and waahi taonga, whether recorded or not. c. carry out due diligence to identify and manage risk prior to land disturbance activities. d. are not relying on accidental discovery protocols as mitigation.	Early consultation has occurred with Ngāti Awa on this application.
Policy 9.1.5: Require: a. consultation and a cultural impact assessment for any activity within 100m of a scheduled or registered cultural heritage site.	This application does not seek authorisation for any new structures or associated disturbance, however ongoing notification and consultation within the adaptive management framework should ensure these actions are undertaken for any disturbance associated with repairs/maintenance.

Relevant provision	Assessment
b. Accidental Discovery Protocols as a condition to a resource consent and/or archaeological authority to damage, modify or destroy a cultural heritage site. c. use of Ngāti Awa cultural monitors for land disturbance activities in areas with a high risk of kōiwi tangata (human remains) or archaeological artefacts of Māori origin. d. contractor briefings or inductions by cultural monitors prior to the commencement of land disturbance activities. This is to ensure that contractors understand the historical context of the area within which they are working. e. the return of discovered artefacts to the Ngāti Awa Research and Archives Centre[26].	

[26] Te Runanga o Ngāti Awa are certified collectors of artefacts under Section 14(4) of the [Protected Objects] Act 1975

9.4.6.3 Marine and Coastal Area (Takutai Moana) Act 2011

Applications for Customary Marine Title under the MACA Act are relevant matters of consideration within the CMA of the Whakatāne River. The MACA Act provides for the special status of the common marine and coastal area as an area that is incapable of ownership and recognises that Māori may have exclusive customary interests in otherwise public areas of the foreshore and seabed.

The MACA Act addresses two types of customary interests in particular:

- protected customary rights, which recognise and protect customary activities, uses and practices (such as collecting hāngī stones or launching waka). Such rights must have been exercised since at least 1840, but may have evolved over time.
- customary marine title over a specified area of the common marine and coastal area, rather than fee simple title (permanent and absolute ownership).

Te Arawhiti, the Office for Māori Crown Relations, has a list of all active applications under the MACA Act in the Eastern Bay of Plenty region: https://www.tearawhiti.govt.nz/te-kahui-takutai-moana-marine-and-coastal-area/applications/eastern-bay-of-plenty/

Figure 41 identifies the applications under the MACA Act that are relevant to the Whakatāne River, based on information provided by BOPRC.

Applicant Group Label	Contact	Determination	Region	Pathway	Representative Group	Court Reference	Crown Engagement Application Number
Te Uri a Te Hapu	Raemon Parkinson c/- Charl Hirschfeld, 10 Kaihu Street, Northcote, Auckland 0627	Customary Marine Title and Protected Customary Rights	Bay of Plenty	Crown Engagement and High Court	Raemon Michael Parkinson on behalf of Te Uri a Tehapu	CIV-2017-404-562	MAC-01-05-23
Te Rūnanga o Ngāti Awa	Koning Webster Lawyers, Level 1 Gravatt Road, PO Box 11120, Papamoa 3151. spencer@kwlaw.co.nz	Customary Marine Title and Protected Customary Rights	Bay of Plenty	Crown Engagement and High Court	Te Rūnanga o Ngāti Awa	CIV-2017-485-196	MAC-01-07-11
Ngāi Taiwhakaea Hapū	Burley Attwood Solicitors, 41 Monmouth Street, PO Box 13120, Tauranga. tom@balaw.co.nz, tim.castle@xtra.co.nz	Customary Marine Title and Protected Customary Rights	Bay of Plenty	High Court	Caroline Takotohiwi on behalf of Ngāi Taiwhakaea Hapū	CIV-2017-485-185	-
Te Patuwai and Ngati Maumoana Hapu	Ruth Shortland, ruihitekowhai.shortland@gmail.com	Customary Marine Title and Protected Customary Rights	Bay of Plenty	Crown Engagement	Te Patuwai Tribal Committtee	MAC-01-05-21	MAC-01-05-21
Ngati Hokopu and Te Wharepaia	Chareles Bluett, dayle@kotukusystems.com	Protected Customary Rights	Bay of Plenty	Crown Engagement	Wairaka Marae Committee	MAC-01-07-14	MAC-01-07-14
Ngati Awa and its constituent whanau and hapu	Leonie Simpson, leonie@ngatiawa.iwi.nz	Customary Marine Title Customary Marine Title Customary Marine Title	Bay of Plenty		Te Rūnanga o Ngāti Awa Te Runanga o Ngati Awa	MAC-01-07-11	MAC-01-07-11
Ngai Tamahaua Hapu (Herewini) CMT	Not held on BOPRC file		Bay of Plenty			MAC-01-07-09	MAC-01-07-09

Figure 41: List of MACA Act applications relevant to Whakatāne River

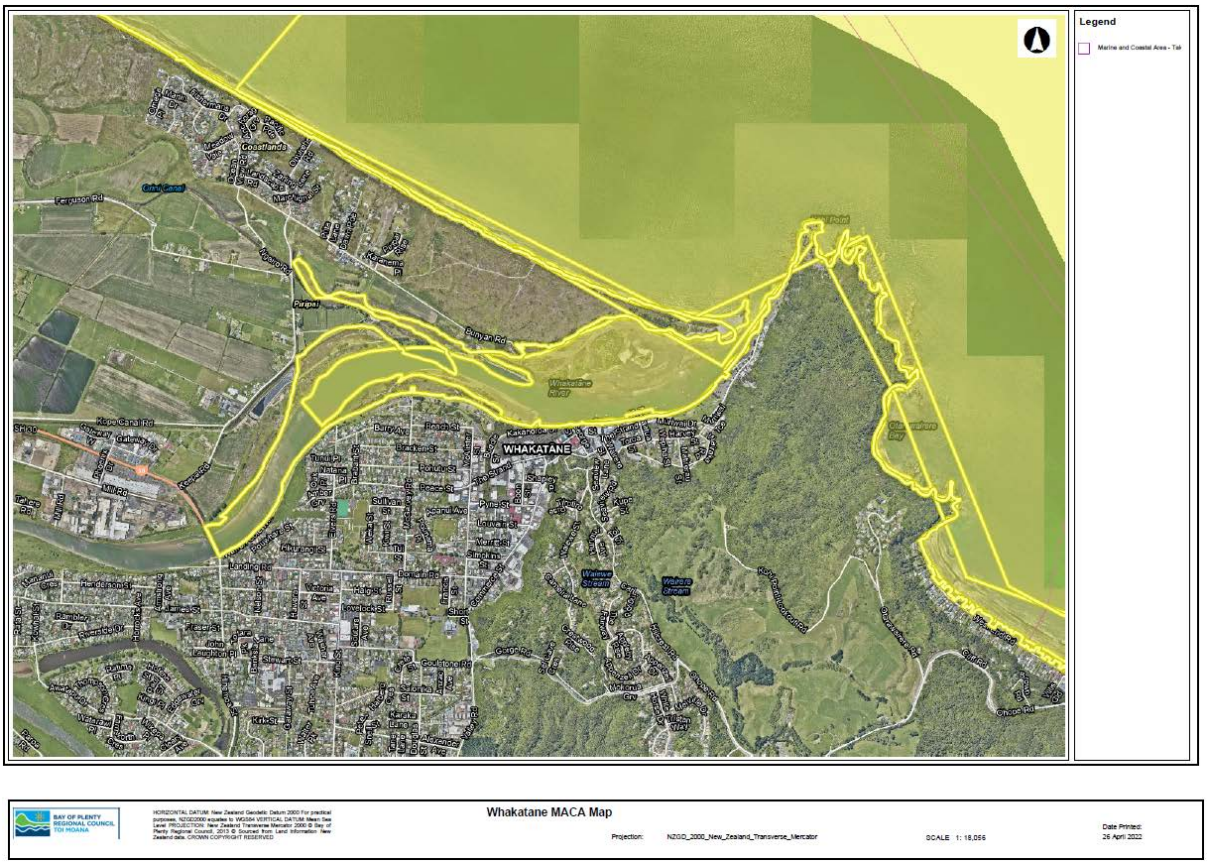


Figure 42: Extent of MACA Act applications relevant to Whakatāne River

Section 64 of the MACA Act defines accommodated activities, and this includes *accommodated infrastructure*[27]. Section 65 of the MACA Act defines deemed accommodated activities. Deemed accommodated activity is new accommodated infrastructure that cannot practicably be constructed or operated outside of a customary marine title; is essential for regional or national social or economic well-being; and has either: been agreed to in principle by the customary marine title holder group or classified by the Minister for Land Information as a deemed accommodated activity.

This application involves existing structures that can be defined as accommodated infrastructure that is within the Coastal Environment, and some within the CMA. This application has sought public notification.

[27] Section 63 of the MACA Act defines accommodated infrastructure to mean:
accommodated infrastructure means infrastructure (including structures and associated operations) that is—

(a) lawfully established; and
(b) owned, operated, or carried out by 1 or more of the following:
  (i) the Crown, including a Crown entity:
  (ii) a local authority or a council-controlled organisation:
  (iii) a network utility operator (within the meaning of section 166 of the Resource Management Act 1991):
  (iv) an electricity generator (as defined in section 2(1) of the Electricity Act 1992):
  (v) a port company (as defined in section 2(1) of the Port Companies Act 1988):
  (vi) a port operator (as defined in Part 3A of the Maritime Transport Act 1994):
(c) reasonably necessary for—
  (i) the national social or economic well-being; or
  (ii) the social or economic well-being of the region in which the infrastructure is located

Any future infrastructure to be constructed within the CMA will require its own process and consideration under the MACA Act and the applicable process will need to be completed in association with any RMA requirements and approvals before any infrastructure can be incorporated within the CMP.

9.4.6.4 Whakatāne District Plan

The relevant district plan is the District Plan. Through objectives, policies and rules, the District Plan directs landowners and the Council when considering property development and/or construction of stormwater infrastructure relevant to the identified zone that the activity is within. Specifically, the District Plan sets out the design requirements to be considered when considering stormwater runoff and conveyance. These standards are stated within the Council's ECOP.

This application does not seek any authority from the District Plan and therefore does not require an assessment against the District Plan's provisions.

9.4.6.5 Stormwater Management Guidelines for the Bay of Plenty region (SMG) April 2012 (updated as of December 2015)

The following is extracted from the guidelines:

"The primary objective of these guidelines is to provide a design guideline for the Bay of Plenty region for stormwater management. Specifically, this includes design guidance for stormwater quality treatment and stormwater quantity control. Practices that will be discussed include ponds, wetlands, filtration practices, infiltration practices, biofiltration practices and other practices that may be used".

The guidelines identify four secondary objectives:

1. To provide the reader with a summary of the principles of stormwater management including an outline of environmental effects and management concepts.
2. To outline the statutory process and provide context for the guideline in relation to stormwater discharges.
3. To provide a resource guideline for those involved with the design of stormwater management practices.
4. To minimise adverse environmental effects of stormwater discharges through appropriate site design and design of stormwater management practices.

These guidelines are comprehensive in the consideration of matters relevant to an entity responsible for designing and managing a stormwater network. The four objectives have been considered and largely adopted in the formation of the CMP accompanying this consent application.

Summary
The existing infrastructure has been designed and installed as and when required throughout the development of the Whakatāne township, some of these structures have been and will be replaced when they reach the end of their service life or become limiting to council ability to manage the network. The SMGs have been considered within the formation of the ECOP now used to direct the design of all new and upgraded structures within the network.

9.4.6.6 Hydrological and Hydraulic Guidelines 2012/02 ("HHG")

The objective of these guidelines is to provide design guidance for activities that require hydrological, hydraulic and/or general civil engineering calculations or assessments. These guidelines were first published in 2001 and subsequently reviewed and republished in 2012.

Since 2001 all conveyance structures associated with the Council's stormwater network have had to consider the HHGs within the relevant consent applications to BOPRC. In addition, the Council's ECOP seeks to ensure the necessary design elements are considered in all future stormwater structures.

Summary
All consented structures installed since 2001 have satisfied the HHGs, future structures to be installed will be in accordance with the Council's ECOP.

9.4.6.7 Stormwater Strategy for the Bay of Plenty Region Environmental Publication 2005/20

The Stormwater Strategy for the Bay of Plenty Region Environmental Publication 2005/20 ("**Stormwater Strategy"**) outlines the stormwater issues confronting the Bay of Plenty region. Its purpose is to assist the region's TAs by providing a framework they can use to produce their own localised stormwater strategies and action plans. The Stormwater Strategy promotes using the principles outlined in the document to ensure stormwater is managed consistently across the region and ensure that the effects of stormwater discharges are dealt with adequately.

The Stormwater Strategy is to be used as an information, reference and guidance resource by regional and local council staff and by key external stakeholders and members of the community interested in the management of stormwater.

Fifteen objectives and corresponding policies are provided in Chapter 4 of the Stormwater Strategy. Where relevant these objectives and policies have guided and been incorporated into the CMP and ECOP prepared by the Council.

The Stormwater Strategy provides direction for the preparation of CSC applications, which is supported by Appendix A of the strategy 'Guidelines for the Development of Comprehensive Stormwater Consent Applications and Catchment Management Plans'. This states that 'applying for wide ranging consents is encouraged'. Section 7 of Stormwater Strategy Appendix A provides matters to be included in CSCs and CMPs.

Summary
This application has been prepared as a comprehensive stormwater consent to include all urban stormwater discharges and associated structures from within the Whakatāne township. The application includes a CMP and where relevant is in accordance with the Stormwater Strategy.

9.4.7 Part 2 matters

Part 2 of the RMA contains the purpose and principles. The overall purpose is to promote the sustainable management of natural and physical resources, defined to mean managing the use, development and

protection of resources in such a way that enables people and communities to provide for their social, economic and cultural wellbeing and their health and safety.

At the same time, they must sustain the potential of resources to meet the reasonable and foreseeable needs of future generations, safeguard the life-supporting capacity of air, water, soil and ecosystems, and must avoid, remedy or mitigate adverse effects on the environment.

Part 2 matters must be given effect to in policy, plan and rulemaking and when making decisions on resource consents. The regional plans therefore contains rules, objectives and policies which define sustainable management.

Summary

The proposal has been assessed as consistent with the overarching objectives and policies of the RCEP and RNRP, and therefore can be considered to uphold the purpose and principles of Part 2.

9.4.7.1 Section 6 of the RMA

Section 6 of the RMA sets out those matters of national importance that a consent authority must recognise and provide for when considering the proposal. Section 6 matters of national importance relevant to this proposal include the following:

(a) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
(b) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
(f) the protection of historic heritage from inappropriate subdivision, use, and development:
(g) the protection of protected customary rights:
(h) the management of significant risks from natural hazards

These matters have been provided for via objectives and policies in the RPS, RNRP, and the RCEP. An assessment of the proposed activities against those provisions has been provided previously in this report.

Summary

The application is consistent with the regional provisions that specifically address section 6 matters (a), (b), (c), (d), (f) and (h). In addition the applicant has proposed processes as previously detailed to ensure that matters (e), and (g) are addressed in an ongoing manner through the relevant section of the CMP, ensuring those matters are recognised and provided for in the Council's operation of its stormwater network.

9.4.7.2 Section 7 of the RMA

Section 7 lists the matters BOPRC must have regard to in determining whether the activity will achieve the purpose of the RMA. It is considered that the efficient use/ development of natural and physical resources, maintenance and enhancement of amenity and maintenance and enhancement of the quality of the environment are relevant matters to this assessment.

Summary

Based on the consistency of the proposal with the objectives and policies of the regional plans, and the nature of potential environmental effects, those matters have been held in regard and the activity will not be contrary to those matters.

9.4.7.3 Section 8 of the RMA

The Treaty of Waitangi provides for the exercise of Kawanatanga, while actively protecting Tino Rangatiratanga of tangata whenua in respect of their natural, physical and spiritual resources. All persons acting under the RMA (including applicants, councils and tāngata whenua) must under Section 8 of the RMA take into account the principles of the Treaty of Waitangi. The principles that are relevant to the resource management context are identified below (this list is neither exhaustive nor conclusive):

- The principle of participation
- The principle of partnership or fiduciary duties (including mutual benefit and reciprocity)
- The principle of active protection
- The principle of active protection.

The Council consulted with TRONA and provided TRONA with a copy of the consent application and supporting documents. Feedback from this process has been included within this report.

Summary

The Council has acknowledged the mana and presence of local iwi who are tāngata whenua and kaitiaki for the area and have commenced consultation with representatives to seek their involvement and input into the proposal in a manner that is anticipated to be consistent with the treaty principles relevant.

The management process proposed recommends ongoing participation and partnership in order to achieve suitable protection of values relevant to the proposed activities.

9.4.8 Section 104D assessment – threshold test

Section 104D of the RMA is a threshold test and both limbs of the test must be considered when assessing applications for non-complying activities (Regulation 54(c) NES-F). Consent may only be granted if at least one of the following tests is passed:

a) *the adverse effects of the activity on the environment (other than any effect to which* Section 104(3)(a)(ii) *applies will be minor; or*
b) *the application is for an activity that will not be contrary to the objectives and policies of—*

both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

The proposal is not contrary to the objectives and policies of the relevant regional plans, nor is it contrary to the relevant provisions of the NES-F. In section 4.5.2 of the Hamill Report, the potential effects on Natural Wetlands are discussed. It can be concluded that any adverse effects on a Natural Wetland resulting from the discharge of stormwater to, or within 100m, of the identified Natural Wetlands will be no more than minor.

Summary
Satisfying the threshold tests of both Section 104D a) and b), the application for a non-complying activity may be considered for approval.

9.4.9 Section 105 – matters relevant to discharge applications

Section 105 provides relevant matters that a consent authority must have regard to when considering a discharge or coastal permit:

105 Matters relevant to certain applications

(1) If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1), have regard to;

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(b) the applicant's reasons for the proposed choice; and

(c) any possible alternative methods of discharge, including discharge into any other receiving environment.

BOPRC, as the consenting authority, must have regard to the matters identified under Section 105 of the RMA. Information has been provided within this application describing:

- the nature of the discharge and the sensitivity of the receiving environment (sections 2, 3 and Appendix 2)
- the rationale for the network's design and operation (sections 1, 2, 4, 8, Appendix 1, and Appendix 4 of this application)
- the possible alternatives that have been considered (section 5 of this application).

Summary
In selecting the relevant design standards and overall system layout, regard has been given to the nature of the discharge and the sensitivity of the receiving environment to adverse effects. The draft SMP and review process as detailed in the CMP identifies the relevant ecological and constituent parameters that shall be monitored to identify any adverse effects resulting from the discharge of stormwater.

9.4.10 Section 107 – restriction to grant certain discharge permits

S107 of the RMA sets out the restrictions on granting certain discharge permits:

> ***107 Restriction on grant of certain discharge permits***
>
> *(1) Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing:*
>
> *(a) the discharge of a contaminant or water into water; or*
>
> *(b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or*
>
> *(ba) the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—*
>
> *if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:*
>
> *(c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:*
>
> *(d) any conspicuous change in the colour or visual clarity:*
>
> *(e) any emission of objectionable odour:*
>
> *(f) the rendering of fresh water unsuitable for consumption by farm animals:*
>
> *(g) any significant adverse effects on aquatic life.*
>
> *(2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied:*
>
> *(a) that exceptional circumstances justify the granting of the permit; or*
>
> *(b) that the discharge is of a temporary nature; or*
>
> *(c) that the discharge is associated with necessary maintenance work—and that it is consistent with the purpose of this Act to do so*
>
> *(3) In addition to any other conditions imposed under this Act, a discharge permit or coastal permit may include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of subsection (1) and of any relevant regional rules.*

BOPRC, as the consenting authority, must have regard to these matters identified under Section 107 of the RMA. The information provided within this application, specifically Appendix 2, reviews and provides conclusions on historical monitoring results of various receiving water bodies and stormwater discharges. Section 2.3 of the Hamill Report specifies the relevant water quality guidelines that have been used while an assessment of effects is provided in section 4 of the report.

Section 4 of the Hamill Report notes that stormwater discharges have occasionally resulted in the formation of foams or films and impacts on visual clarity within receiving water bodies at specified locations. These occurrences are temporary and that any resultant adverse effects are minor.

The Hamill Report notes "*Production of odour from stormwater assets is rare. Occasional odour complaints have occurred in the past associated with water from Sullivan Lake but these are generally associated with decomposition of material after spraying of aquatic weeds*".

Section 4.3.5 of the Hamill Report discusses stock drinking water, noting "*…the Whakatāne River exceeds stock drinking water standards (1000 cfu/100mL) about 7% of the occasions predominantly during high flow events. During rain events the stormwater discharges contribute to this exceedance – although in a very small way".* Table 4.9 also concluded that there were no significant adverse effects upon aquatic life in the receiving water bodies.

Summary
Having regard to the matters identified in s107 and the technical information provided in the Hamill Report, after reasonable mixing within the receiving environment the discharges of stormwater do not contravene s15 or 15A (RMA).

9.4.11 Consent term

The maximum consent term of 35 years is sought, reflecting the scale and significance, value, and essential function of the public stormwater network. The infrastructure has a long lifespan, there is a functional need to continue delivering stormwater drainage and conveyance beyond 35 years, and the applicant is able to support stormwater management for the lifetime of the Whakatāne Township.

9.4.12 Overall conclusion

The Council seeks to renew its existing resource consents via a CSC for the existing discharges of stormwater from the Whakatāne township and the associated network structures located in the bed/bank of a river or stream and/or in the CMA. The network was installed to enable development and growth of Whakatāne Township by conveying stormwater away from built-up urban areas and dispersing it to waterways to minimise the effects of flooding on property and the risk to human life.

The impacts of the stormwater network and associated discharges have been evaluated through water quality and ecological monitoring, which concluded that the overall adverse effects are largely minimal. Where needed, further actions have been recommended to suitably mitigate adverse effects.

Adaptive management will be used in the management and monitoring of the stormwater network. This facilitates risk management while using the network, ensuring and protecting the identified environmental values through targeted monitoring.

The proposed activities and their potential environmental effects have been identified and assessed against the relevant statutory documents, as stipulated by the RMA, and are consistent with the general and specific policy direction given within these documents. It is considered the application is an efficient use of natural and physical resources and is therefore consistent with the overarching sustainable management purpose within Part 2 of the RMA.

The adverse effects of the activities on the environment are considered to be minimal and can be suitably avoided, remedied, or mitigated. As such, it is considered that this consent application can be granted.

Appendix 1. Whakatāne Urban Area Stormwater Catchment Description

Appendix 2. Whakatāne Comprehensive Stormwater Consent: Potential effects on ecology and water quality

Appendix 3. Whakatāne Comprehensive Stormwater Consent Monitoring Plan: DRAFT

Appendix 4. Whakatāne Urban Stormwater Modelling – Model Build and System Performance Report

Appendix 5. Whakatāne Urban Stormwater Catchment Management Plan

Appendix 6. Existing Consents

Appendix 7. Asset Management Plan Part B: Stormwater Drainage

Appendix 8. Stormwater Quality Monitoring Report

Appendix 9. Te Rūnanga o Ngāti Awa CIA

Appendix 10. Application forms