









# Meeting of the Clifton to Tangoio Coastal Hazards Strategy Joint Committee

**Date:** Friday 27 November 2020

**Time:** 10.00am

Venue: Council Chamber

Hawke's Bay Regional Council

159 Dalton Street

**NAPIER** 

### **Attachments Excluded From Agenda**

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HAWKE'S BAY REGIONAL COUNCIL

## POLICY AND REGULATORY REVIEW

Stage 4 Clifton to Tangoio Coastal Hazard Strategy

July 2020

HBRC Report # 5477

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#### REPORT INFORMATION

Report Status	Final
Our Reference	MDL001088
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#### 1. INTRODUCTION

Clifton to Tangoio Coastal Hazard Strategy 2120 ("the Strategy") is entering into Stage 4 of a four-stage development process. Stage 4 will culminate in the identification of a clear implementation plan which will identify the actions required to implement the adaptation pathways identified as part of Stage 3 of the Strategy development process.

A key component of Stage 4 of the development process is establishing whether the existing planning and regulatory framework supports the implementation of the Stage 3 adaptation pathways. The purpose of this report is to identify and evaluate the key national, regional and district level planning and regulatory frameworks, and identify whether they are likely to pose any challenges to the implementation of the Stage 3 adaptation pathways and the broader principles set out in the Strategy. The report then makes recommendations around what changes could be implemented at a national, regional and local planning and policy level to assist with long term Strategy implementation.

#### 1.1 PURPOSE OF THE REPORT

The purpose of this report is to:

- Provide an overview of the purpose and process of the Strategy;
- Identify and summarise the key national, regional and local level planning and regulatory documents that could impede or support the implementation of the adaptation pathways identified as part of Stage 3 of the Strategy;
- Provide recommendations around what changes may be required to the existing planning and policy framework, with particular focus on regional and local processes where the relevant Councils have jurisdiction to enact change;
- Identify recent approaches to coastal hazard management and interpretation of case studies; and
- Summarise the key finds of the report and actions to be taken to ensure the short-term adaptation responses identified in the Strategy can be implemented.

#### 1.2 STRUCTURE OF THE REPORT

The report is structured as follows:

Section 1: Sets out the purpose of the report.

Section 2: Provides a brief overview of the Strategy development process, including and up to Stage 4.

1 3

Section 3: Identifies the key national, regional and local level policy and planning documents and provides commentary around consistency and alignment with both higher and lower statutory documents.

Section 4: Provides an overview of two case studies; one from the Tasman District and one from the Bay of Plenty.

Section 5: Summarises the findings of the report and identifies the key recommendations identified within.

## 2. THE CLIFTON TO TANGOIO COASTAL HAZARD STRATEGY 2120

#### 2.1 OVERVIEW

The Strategy represents a co-ordinated approach to identifying and responding to coastal hazards and the influence of sea level rise over the next 100 years. It provides a platform for long-term planning and decision making.

The Strategy has been developed through a Joint Committee formed by representatives from the Hawke's Bay Regional Council ("HBRC"), the Napier City Council ("NCC"), and the Hastings District Council ("HDC"), alongside representatives of the Maungaharuru-Tangitū Trust, Mana Ahuriri Incorporated and He Toa Takitini.

#### The Strategy:

- Covers the coastal area between Clifton to Tangoio;
- Seeks to develop a planned response to coastal hazards out to the year 2120;
- Assesses and responds to the following coastal hazards;
  - Coastal erosion (storm cut, trends, effects of sea level rise); and
  - Coastal inundation (storm surge, set-up, run-up, overtopping and sea level rise).
- Incorporates climate change as an overriding influence.<sup>1</sup>

The vision of the Strategy is:

That coastal communities, businesses and critical infrastructure from Tangoio to Clifton are resilient to the effects of coastal hazards.



Note the Strategy did not include consideration of tsunami risks or ground water table rises.

#### 2.2 STRATEGY DEVELOPMENT PROCESS

The Strategy was initiated in 2014, with the establishment of a Technical Advisory Group ("TAG") formed by senior Council staff and advisors, and the Clifton to Tangoio Coastal Hazards Strategy Joint Committee ("Joint Committee"). The Strategy is being developed in four key stages, followed by an ongoing monitoring and review process (Figure 1).



Figure 1: Clifton to Tangoio Coastal Hazard Strategy – Process of Development.

Stage 1 commenced in late 2014. Fundamental to Stage 1 was the identification of the extent of coastal erosion and coastal inundation hazards out to the year 2120, and the risks these present. This technical study was undertaken by Tonkin & Taylor with oversight from TAG and the Joint Committee. This work resulted in two reports being produced: Coastal Hazards Assessment<sup>2</sup> and Coastal Risk Assessment<sup>3</sup>. The coastal hazard assessment work was independently peer reviewed by Professor Paul Kench of Auckland University.

A mapping tool was also developed to show the newly mapped hazard extents. This information is provided through the Hawke's Bay Hazard Information Portal at: http://www.hbemergency.govt.nz/hazards/portal.

Stage 2 comprised development of a bespoke decision-making framework for the 100year Strategy by Mitchell Daysh Ltd,<sup>4</sup> based on a community decision-making model and utilising a range of decision making tools including Multi-Criteria Decision Analysis process ("MCDA"), Dynamic Adaptive Planning Pathways ("DAPP") and Real Options Analysis ("ROA"). During this stage, a funding model think-piece report was prepared by Maven Consulting.<sup>5</sup> The preliminary funding model identified options for how planned responses

Maven & Environmental Management Services Ltd, 2016. Stage Two – Clifton to Tangoio Coastal Hazards Strategy 2120: Hazards Response Funding Model.



3

Tonkin & Taylor, 2016. Clifton to Tangoio Coastal Hazards Strategy 2120 - Coastal Hazard Assessment.

<sup>&</sup>lt;sup>5</sup> Tonkin & Taylor, 2016. Hawke's Bay Coastal Strategy - Coastal Risk Assessment.

Mitchell Daysh Ltd, 2017. Clifton to Tangolo Coastal Hazards Strategy 2120 – Stage Two Report: Decision Making Framework.

to coastal hazards risks identified in the Strategy might be paid for. The report covers public / private benefits, the sharing of costs between Councils, and mechanisms for securing funds, including the proposed establishment of a Coastal Contributory Fund.

Maven Consulting also prepared social impact assessments for each of the Priority Units.<sup>6</sup>

Stage 2 was completed at the end of 2016.

Stage 3 saw the implementation of the decision-making framework that was developed in Stage 2 to arrive at recommended responses to coastal hazards risks over the 100-year strategy period. The process was undertaken by the Assessment Panels, and the recommendations presented to the Joint Committee in February 2018. The recommendations of the Assessment Panels were adopted by the Joint Committee on 20 February 2018 and were subsequently endorsed and adopted in principle in order to progress to Stage 4.7

Stage 4 involves the development of an Implementation Plan for the coastal hazard responses recommended in Stage 3. Stage 4 will include the sequencing of works to be implemented in the short-term, and the identification of any supporting funding and policy actions, including potential regional and district plan changes. Stage 4 will also see the development of triggers (decision points) to determine when to transfer to the next (or different) coastal hazard response option for each priority unit of the Strategy area. The completion of Stage 4 should culminate in the partner Councils deciding whether to endorse and adopt the Strategy itself.

#### 2.3 OVERVIEW STAGE 3 ASSESSMENT PANEL RECOMMENDATIONS

Stage 3 of the Strategy culminated in the Assessment Panels making recommendations to the Joint Committee regarding their preferred adaption pathways for each of the Priority Units identified within the Strategy. The Priority Units and the associated pathways are shown in Table 1 below.

Marven Consulting, 2017. Coastal Hazards and Social Impact Assessment and Valuation for Ahuriri/Pandora, Westshore, Bay View and Whirinaki and a later 2017 assessment titled Cape Coast Area Coastal Hazards Social Impact Assessment and Valuation, prepared by Marven Consulting.

Ratified by each Council as follows: Hawke's Bay Regional Council, 28 March 2018; Napier City Council, 9 April 2018; and Hastings District Council, 22 March and 28 June 2018.

Table 1: Overview of the Assessment Panel adaptation pathway recommendations developed by the community Assessment Panels as part of Stage 3 of the Strategy.

Unit	Short-term (0-20 years)		Medium Term (20-50 years)		Long Term (50-100 years)
Northern Panel					
Ahuriri	Status quo	+	Sea wall	•	Sea wall
Pandora	Inundation Protection	+	Inundation Protection	•	Inundation Protection
Westshore	Renourishment	•	Renourishment + Control Structures	•	Renourishment + Control Structures
Bay View	Status Quo / Renourishment	*	Renourishment + Control Structures	+	Renourishment + Control Structures
Whirinaki	Status Quo / Renourishment	*	Renourishment + Control Structures	•	Sea wall
Southern Panel					
Clifton	Sea wall	•	Sea wall	+	Managed Retreat
Te Awanga	Renourishment + Groynes	+	Renourishment + Groynes	+	Renourishment + Groynes
Haumoana	Renourishment + Groynes	+	Renourishment + Groynes	+	Managed Retreat
Clive / East Clive	Status Quo	+	Renourishment + Groynes	•	Retreat the Line / Managed Retreat

#### 3. REGULATORY CONTEXT

A brief overview of the key national, regional and local level regulatory documents that relate to the management of coastal hazards is set out in the following sections. Where relevant, a number of "other" plans and strategies have also been considered. At the end

Stage 4 Regulatory Review: Clifton to Tangoio Coastal Hazard Strategy 2120



of each section, observations are made around the extent to which the short-term adaptation responses are consistent with the outcomes sought by each document, and opportunities identified where further amendments or changes to the documents would assist with the overall delivery of the Strategy.

#### 3.1 NATIONAL LEGISLATION

While the Resource Management Act 1991 ("RMA" or "the Act") is the primary legislative document for managing land use activities and structures within identified natural hazard areas, the RMA interplays with a number of other statutes that also have functions and responsibilities in these areas. For the purposes of this review, the following statutes are considered relevant as they may influence the implementation of the adaptation pathways identified in Stage 3 of the Strategy:

- RMA.
- Climate Change Response Act 2002 (including the Climate Change Response Zero Carbon Amendments Act 2019).
- Building Act 2004.
- Local Government Act 2002.
- Reserves Act 1977.
- Heritage New Zealand Pouhere Taonga Act 2014.
- Marine and Coastal Area (Takutai Moana) Act 2011.

While the primary focus of this report is on the RMA and the statutory documents prepared under it, other statutes are briefly considered as relevant. There will also be a range of other statutes that may be relevant to any particular project, including the Wildlife Act 1953, Marine Mammals Protection Act 1978 and fisheries legislation for example. These will need to be addressed on a case-by-case basis.

#### 3.1.1 Resource Management Act 1991

The RMA is the primary legislative document guiding national and regional policy planning in New Zealand.

The purpose of the RMA is to promote the sustainable management of natural and physical resources. In achieving that purpose, regional councils and territorial authorities must recognise and provide for a number of "matters of national importance", including:



Section 5, Resource Management Act 1991.

- The preservation of the natural character of the coastal environment (including the coastal marine area) and their margins, and the protection of them from inappropriate subdivision, use and development;<sup>9</sup>
- The maintenance and enhancements of public access to and along the coastal marine area: 10 and.
- the management of significant risks from natural hazards as a matter of national importance.<sup>11</sup>

Under the RMA, "natural hazard" means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding), the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.

For the purposes of giving effect to the RMA, the statutory functions of regional councils<sup>12</sup> (such as HBRC) are, as relevant to this report, the:

- establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region; and
- to control of the use of land, water bodies and the coastal marine area, for the purpose of the avoidance or mitigation natural hazards.

The functions of territorial authorities (such as HDC and NCC) include the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the avoidance or mitigation of natural hazards.<sup>13</sup>

When preparing policy statements, regional plans and district plans, local authorities must give effect to national policy statements, including the New Zealand Coastal Policy Statement.

When considering an application for subdivision consent, a consent authority may refuse to grant subdivision consent if it considers there is a significant risk from natural hazards. An assessment of the risk from natural hazards requires a combined assessment of the



<sup>9</sup> Section 6(a), Resource Management Act 1991.

Section 6(d), Resource Management Act 1991.

Section 6(h), Resource Management Act 1991, inserted on 19 April 2017 via the Resource Legislation Amendment Act 2017.

Section 30, Resource Management Act 1991.

Section 31, Resource Management Act 1991.

likelihood of the hazards occurring, the material damage that would result from natural hazards, and any subsequent use of the land. 14

#### 3.1.2 Climate Change Response Act 2002

The Climate Change Response Act 2002 ("CCRA") puts in place a legal framework to enable New Zealand to meet its international obligations under the United Nations

Framework Convention on Climate Change and the Kyoto Protocol. Relevantly, the CCRA also puts in place a framework to develop and implement clear and stable climate change policies that allow New Zealand to prepare for and adapt to the effects of climate change. 15

Part 1C was introduced in 2019 by the Climate Change Response (Zero Carbon)

Amendment Act 2019 and addresses climate change adaptation. Specifically, it requires that a national climate change risk assessment be prepared by the Minister which assesses the risks to New Zealand's economy, society, environment and ecology from the current and future effects of climate change. It also requires that the most significant risks are identified, based on the nature and severity of those risks and the need for a coordinated response to those risks. The first assessment must be prepared by the Minister within one year (by November 2020), with repeat assessments every six years thereafter. 15

In response to the national climate change risk assessment, the Minister must prepare a national adaptation plan. This plan must set out the Government's objectives for adapting to the effects of climate change and the Government's strategies, policies and proposals for meeting the objective. This plan must be prepared no later than two years after the date of the national climate change risk assessment being made publicly available (2022).

Government progress in the adaptation space will be monitored and reported by the new Climate Change Commission every two years. As part of this reporting, any barriers to the implementation and effectiveness of the adaptation must be identified and recommendations provided around how those barriers might be addressed or overcome in the future. Such national level initiatives will likely assist with the long-term delivery of the Strategy as national guidance is established to assist with long term delivery and management of climate change risk in New Zealand. It would be prudent for the TAG to remain abreast of the national adaptation plan to ensure the Strategy continues to align with national level direction.



Section 106, Resource Management Act 1991.

Section 3((1)(aa)(i), Climate Change Response Act 2002.

Section 5ZP(1), Climate Change Response Act 2002.

Section 5ZS, Climate Change Response Act 2002.

Section 5ZU, Climate Change Response Act 2002

#### 3.1.3 Building Act 2004

The Building Act 2004 sets out the rules for the construction, alteration, demolition and maintenance of new and existing buildings in New Zealand.

The Building Act states that a building consent authority (i.e. HDC, and NCC, and HBRC for dams only) must refuse to grant a building consent for a new building or a major alteration if the land is subject or likely to be subject to one or more natural hazards, or the building work is likely to accelerate, worsen or result in a natural hazard. An exception can be made if the building consent authority is satisfied that adequate provisions have been or will be made to protect the building or work from natural hazards or to restore any damage to that land or other property as a result of the building work. <sup>19</sup>

The natural hazard provisions apply only to "major alterations" or the construction of new buildings. The Building Act does not define "major alterations".

#### COMMENTARY

The Building Act does not provide any guidance as to the requisite source or origin of natural hazard data to be used by building consent authorities when making assessments under sections 71 to 74 of the Building Act. Rather, when preparing project information memorandum, the building consent authority is required to include information relevant to the building work that identifies any "special feature of the land concerned". This includes potential natural hazards.

At present, the Hastings District and Napier City Councils rely on different baseline data and mapping to identify coastal hazard erosion along the Clifton to Tangoio coastline. The Hastings District Council relies on the data contained within the Hawke's Bay Regional Council's Hazard Portal <sup>20</sup>, whereas the Napier City Council relies on the data contained in a 2002 report titled "Review of the 1996 Coastal Hazard Zone between Ahuriri Entrance and Esk River Mouth". This report was used to define the coastal hazard zone in the City of Napier District Plan. As a result of the different baseline dataset, significantly more properties are identified within an area considered to be subject to coastal hazards (for building consent purposes) in the Hastings District, and commensurately more building consents are being subjected to sections 71 to 74 of the Building Act.

Building consent authorities should rely on the most up-to-date, reliable and calculated data when processing building consent applications. The Local Government Act 2002 also encourages the local authorities and other bodies to collaborate and co-operate to

Note that this data has not been through a public process or quality control process outside of that undertaken by the experts that prepared the data.



<sup>&</sup>lt;sup>19</sup> Section 71, Building Act 2004.

improve the effectiveness and efficiency in the way they achieve their identified priorities and desired outcomes. For a Strategy area, alignment should be reached between HDC and NDC around the source data used for evaluating building consent applications within hazard zones and how the Building Act is being interpreted and applied.

It is anticipated that the inconsistency in approach between Councils will be resolved when the partner Councils decide how the hazard assessment will be used, what probability risk would be acceptable for controlling land uses and in which planning document/s the coastal hazard zones should be incorporated. In the interim however, it would be prudent for HDC and NCC Council staff to continue to work collaboratively on this matter and develop an agreed set of baseline data and an agreed evaluation process for new building consent applications with the hazard areas identified in the Strategy.

It should be noted that recent work by both HDC and NDC to align the messaging on land information memorandum with respect to coastal hazards is a positive step in creating consistency (as appropriate) along this coastline.

#### 3.1.4 Local Government Act 2002

The Local Government Act 2002 ("LGA") establishes the purpose of local government and the role of local authorities. It provides for local authorities to play a broad role in promoting the well-being of their communities, while maintaining a sustainable development approach.

Under the LGA, local authorities must:

- Actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which they achieve their identified priorities and desired outcomes;
- Actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which they achieve their identified priorities and desired outcomes;
- Ensure prudent stewardship and the efficient and effective use of their resources in the interests of their district or region, including by planning effectively for future asset management; and
- In taking a sustainable development approach, take into account the:
  - o Social, economic, and cultural interests of people and communities; and
  - Need to maintain and enhance the quality of the environment; and
  - Reasonably foreseeable the needs of future generations.



#### COMMENTARY

The LGA requirements for local authorities to be both collaborative and cooperative with other local authorities goes beyond the consultation requirement under the RMA and encourages a higher level of participation which will benefit the implementation of the Strategy.

The sustainable development approach in the LGA generally aligns well with the sustainable management purpose and principles in Part 2 of the RMA. While local authorities have statutory duties under the RMA and LGA which may overlap at times, the more specific requirements of the RMA will take precedence when undertaking functions under that Act.

As a consequence, just because a capital project is identified in a Long Term Plan made in accordance with the LGA, this does not necessarily mean that RMA approvals for that project will be granted. If compliance with the RMA cannot be achieved by a consent application, local government capital projects are like any other and an application can be declined. Understanding these risks and how to navigate them is needed before identifying projects in Long Term Plans.

#### 3.1.5 Reserves Act 1977

The Reserves Act 1977 is the current legislation for administering public reserves. The general purpose is set out in Section 3 of this Act, summarised as follows:

- Providing for the preservation and management of areas for the benefit and enjoyment of the public;
- Ensuring, as far as possible, the survival of all indigenous species of flora and fauna;
- Ensuring, as far as possible, the preservation of access for the public;
- Providing for the preservation of representative samples of all classes of natural ecosystems and landscape; and
- Promoting the protection of the natural character of the coastal environment and the margins of lakes and rivers.<sup>21</sup>

Reserves are generally gazetted by the Minster of Conservation with a specific purpose to ensure they are controlled, managed, developed, used, maintained and preserved in line



<sup>21</sup> Section 3, Reserves Act 1977.

with their intended purpose. There are seven types of reserves under the Reserves Act<sup>22</sup>, however only two apply to the Priority Units, including:

- Recreation reserves: the purpose of these reserves is to provide areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.<sup>23</sup>
- Local purpose reserves: the purpose of local purpose reserves is to provide and retain areas for such local purpose or purposes as are specified in any classification of the reserve.<sup>24</sup>

#### COMMENTARY

All of the reserves within the Priority Units have either been Gazetted for Recreation or Local Purpose Reserve purposes. Further investigation will be required to determine whether the proposed adaptation pathways are in keeping with the purpose of these reserves or the ambit of activities that are anticipated within them, and/or whether specific authorisations will be required.

The reserve status for those reserves within each of the Priority Units will need to be further evaluated and consideration to determine the appropriate next step.

The key next steps include reviewing the classification, any reserve management plan and the detailed provisions of the Reserves Act, to determine what actions or authorisations are required.

#### 3.1.6 Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act 2011 ('MACA') acknowledges the importance of the marine and coastal area to all New Zealanders and provides for the recognition of the customary rights of iwi, hapū and whānau in the common marine and coastal area.<sup>26</sup>

There are two avenues available under MACA: direct Crown engagement and applications to the High Court. There are currently a number of MACA applications for various stretches of the Hawke's Bay region's coastline for customary marine title and / or



Sections 17 to 23, Reserves Act 1977.

<sup>23</sup> Section 17, Reserves Act 1977.

<sup>&</sup>lt;sup>24</sup> Section 23, Reserves Act 1977.

https://tearawhiti.govt.nz/te-kahui-takutai-moana-marine-and-coastai-area/

protected customary rights. The application area of the following groups includes the coastal marine area covered by the seven Priority Units:<sup>26</sup>

- Heretaunga Tamatea Settlement Trust.<sup>27</sup>
- Maungaharuru-Tangitü Hapü.<sup>28</sup>
- He Toa Takitini (Heretaunga Tamatea). 29
- Mana Ahuriri Incorporated. 30
- Te Aitanga a Puta, Ngati Kurupakia e Ngai Tauira Hapu.31
- Ngai Tamahaua hapu (Herewini).
- Ngāti Pāhauwera.<sup>32</sup>
- Ngāti Parau Hapū.<sup>33</sup>

If an activity requiring a resource consent is located within the area of a customary marine title application, the resource consent applicant is required to notify and seek the views of any group that has applied for recognition of a customary marine title in that area. 34 If a customary marine title determination is made, then a consent applicant must have written permission from that customary marine title group before an activity authorised by a resource consent can commence.

If an activity requiring resource consent is in an area where a group exercises protected customary rights, the resource consent must not be granted if the activity will or is likely to, have more than minor adverse effects on the rights unless permission of the protected customary rights group is obtained or the activity fits one of the exceptions listed.<sup>35</sup>

#### COMMENTARY

No determinations have been made under the MACA at this stage for either customary marine title or protected customary rights, although there are a number of processes, including some High Court proceedings that are in train in the Hawke's Bay. Until

- Based on the maps appended to each application published on Te Arawhiti website (https://tearawhiti.gov/t.nz/).
- 27 Relevant to the Te Awanga, Haumoana and Clifton Priority Units.
- 28 Relevant to the Whirinaki and Bay View Priority Units.
- Relevant to the Te Awanga, Haumoana and Clifton Priority Units.
- Relevant to the Whirinaki, Bay View, Westshore and Pandora Priority Units.
- 31 Relevant to all Priority Units.
- Relevant to the Whirinaki Priority Unit.
- Relevant to the Pandora and Westshore Priority Units.
- Section 62, Marine and Coastal Area (Takutai Moana) Act 2011.
- Section 55(2), Marine and Coastal Area (Takutai Moana) Act 2011.



determination has been made, any person applying for a resource consent must notify and seek the views of any group that has applied for a customary marine title or protected customary rights. It is likely however that there could be orders/agreements in place by the time the Strategy is to be implemented, and that could have a significant bearing on the ability to implement resource consents. That means that careful engagement with those groups will be critical.

Once a determination is made the approval of the customary marine title and/or protected customary rights group must be obtained.

It is important to note as background that the three main iwi groups within the Strategy area, Heretaunga Tamatea Settlement Trust (previously He Toa Takitini), Mana Ahuriri Trust (previously Mana Ahuriri Incorporated) and the Maungaharuru-Tangitū Trust, appointed representatives who were part of the Assessment Panels who developed the adaptation pathways as part of Stage 3 of the Strategy. Wider iwi members were also involved in a focused multi criteria decision-making analysis process relating to Maori values which was brought to the Northern and Southern Assessment Panels as part of recommending the preferred pathways. These iwi groups also ratified the adaptation pathways as part of their governance role within the Joint Committee. The proposed adaptation pathways identified for each of the Priority Units are therefore informed through this process.

As work further evolves as part of Stage 4 of the Strategy, including any potential policy changes and the advancement of consenting processes, advice should be sought directly from relevant iwi groups (with support from Council iwi liaison advisors) around the additional engagement required as these processes move forward.

#### 3.1.7 Hawke's Bay Regional Planning Committee Act 2015

The Hawke's Bay Regional Planning Committee Act 2015 was established following discussions between the Crown, HBRC, Tühoe and tängata whenua of Hawke's Bay in the context of Treaty settlement negotiations. The discussions identified a need for greater tängata whenua involvement in the management of natural resources in the regional planning committee ("RCP").

The purpose of the Hawke's Bay Regional Planning Committee Act 2015 is to improve tangata whenua involvement in the development and review of documents prepared under the RMA in the Hawke's Bay Region.

The RCP consists of ten appointed tangata whenua members and 10 appointed Councilors. At a high level, the purpose of the RPC is to oversee the development and review of documents prepared in accordance with the RMA for the RPC region.



# Attachment

#### COMMENTARY

While the Hawke's Bay Regional Planning Committee Act 2015 relates specifically to documents prepared under the RMA, it is just one of many examples that highlights the importance of recognising and enabling iwi to exercise kaitiakitanga over areas of particular cultural interest. While iwi representation has been provided for three iwi as part of the development of the Strategy, it would be prudent to consider broadening this engagement as part of the Stage 4 implementation phase. While there are a number of ways in which this could occur, it is critical that all engagement occurs in a meaningful and respectful way. Consideration should be given to developing a separate cultural workstream that ensures that iwi interests are given appropriate recognition during the implementation phase of the Strategy.

#### 3.1.8 Heritage New Zealand Pouhere Taonga Act 2014

Under the Heritage New Zealand Pouhere Taonga Act 2014 it is unlawful and an offence for any person to modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site without the prior authority of Heritage New Zealand. An archaeological site can generally be described as a site that is associated with human activity that occurred before 1900.

#### COMMENTARY

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A number of heritage and cultural sites are located within or nearby the priority units. Many of the units also carry significant cultural value.

If any of the proposed works are located within known heritage areas or it would be reasonable to assume that some historic artefacts may be found during the works, it would be prudent to obtain an archaeological authority prior to works commencing. If an archaeological authority is sought for the site, an application would need to be prepared and submitted to Heritage New Zealand by an appropriately qualified heritage expert. Iwi consultation may also be required depending on the nature of the likely discovery. This archaeological process can create consenting risk and the tests are different to the RMA. Archaeological authorities can be appealed to the Environment Court.

#### 3.2 NATIONAL POLICY STATEMENTS AND PLANS

The purpose of national policy statements is to state objectives and policies in order to achieve the overarching purpose of the RMA in relation to matters of national



significance.<sup>36</sup> When considering a resource consent application, designation or plan change under the RMA, the appropriate level of legal weighting must be applied to the relevant provisions of a national policy statement.

All regional policy statements, regional coastal plans and district plans (discussed in the following sections) must give effect to any national policy statement.<sup>37</sup> National policy statements therefore guide the policy framework for all matters to which a policy statement applies. Of particular relevance to this evaluation are the following national policy statements:

- New Zealand Coastal Policy Statement 2010 ("NZCPS"); and,
- National Policy of Urban Development Capacity 2016 and the Proposed National Policy of Urban Development 2019 ("NPS-UD").

National Policy Statements are relevant to the RMA decision making process and are not directly applicable to all elements and dimensions of Strategy implementation (for example, funding models).

#### 3.2.1 New Zealand Coastal Policy Statement 2010

The purpose of the NZCPS is to state objectives and policies in order to achieve the overarching purpose of the RMA in relation to the coastal environment.<sup>38</sup> The NZCPS is a national policy statement under the RMA and took effect in December 2010.<sup>39</sup> Section 104(1)(b)(iv) of the RMA requires that when considering an application for resource consent, regard must be had to any relevant provisions of a NZCPS.

All regional policy statements, regional coastal plans and district plans must give effect to the provisions of the NZCPS. <sup>40</sup> The NZCPS, therefore, guides the policy framework for all planning documents pertaining to the coastal environment throughout New Zealand, and recent case law confirms the powerful effect of the NZCPS.

The key provisions of the NZCPS that are particularly relevant to the implementation of the Strategy relate to strategic planning, the Treaty of Waitangi, tangata whenua and Māori Heritage, indigenous biodiversity, landscapes, coastal hazards and historic heritage.



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<sup>36</sup> Section 56 of the RMA

Section 61(1)(da), section 66(1)(ea) and section 74(1)(ea) of the RMA respectively.

<sup>38</sup> Section 56 of the RMA.

The NZCPS took effect after decisions on submissions on the Regional Coastal Environment Plan were notified in July 2008, therefore the Regional Coastal Environment Plan cannot be taken as having given effect to the NZCPS.

<sup>40</sup> Section 61(1)(da), section 66(1)(ea) and section 74(1)(ea) of the RMA respectively.

#### Policy 2 The Treaty of Waitangi, Tangata Whenua and Māori Heritage

Policy 2 of the NZCPS specifically requires kaitiakitanga to be taken into account in relation to the coastal environment, provision for the exercise by Tangata Whenua of kaitiakitanga, and direct involvement of Tangata Whenua in decision making. As noted earlier, the Joint Committee and Assessment Panels include representatives from the three main iwi within the Strategy area. As work further evolves as part of Stage 4 of the Strategy and subsequent policy changes, plan changes or resource consents are sought under the RMA to implement the policy, advice should be sought from Council liaison advisors around the additional engagement required with parties outside of the Joint Committee, both with tangata whenua generally and in light of applications that have been made for customary marine title and protected customary rights under MACA.

#### Policy 7 Strategic Planning

Policy 7 provides guidance around strategic planning. Specifically, when preparing regional policy statements and plans, Policy 7 encourages that consideration be given to where, how and when to provide for future development and activities in the coastal environment, identification of areas where subdivision or development may be inappropriate, and identification of coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects, and how these effects might be managed.

## Policy 11 Indigenous Biological Diversity / Policy 13 Preservation of Natural Character / Policy 15 Natural Features and Landscapes

Policies 11, 13 and 15 of the NZCPS relate to indigenous biodiversity, natural character, and natural features and landscapes, respectively.

Policy 11 addresses indigenous biodiversity. Policy 11(a) seeks to protect indigenous biodiversity within the coastal environment by <u>avoiding adverse effects</u> on more sensitive areas of indigenous biodiversity - such as threatened or at-risk indigenous taxa, threatened or naturally rare indigenous ecosystems, habitats and vegetation, naturally rare habitats of indigenous species, nationally significant examples of indigenous community types, and areas set aside for full or partial protection of indigenous biodiversity.

By contrast, sub-paragraph 11(b) seeks to <u>avoid significant adverse effects</u> and avoid, remedy or mitigate other adverse effects in less sensitive indigenous biodiversity - such as the habitats of indigenous species during vulnerable life stages, or habitats that are important for recreational, commercial, traditional or cultural purposes, indigenous ecosystems and habitats vulnerable to modification, and ecological corridors.

A similar cascading management approach is set out within Policy 13 with respect to natural character. Specifically, Policy 13(a) seeks to preserve natural character and protect it from 'inappropriate use and development' by <u>avoiding adverse effects</u> of activities in



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areas of outstanding natural character. Policy 13(b) requires a different level of protection for natural character areas that are not 'outstanding' and states that <u>significant adverse</u> <u>effects</u> on natural character are to be avoided, and all other effects on natural character are to be avoided, remedied or mitigated.

Policy 15 addresses natural features and natural landscapes. In line with Policies 11 and 13, the cascading approach requires under sub-paragraph (a) that natural features and landscapes (including seascapes) be protected from 'inappropriate use and development' by avoiding adverse effects on areas identified as outstanding natural features and outstanding natural landscapes. Sub-paragraph (b) requires that significant adverse effects on other natural features and landscapes (including seascapes) be avoided, and all other effects on those features and landscapes be avoided, remedied or mitigated.

#### COMMENTARY

In recent years, the interpretation of these provisions, particularly Policies 13 and 15, has been extensively litigated in the Courts. The most significant of these being the Supreme Court decision *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd [2014] 1 NZLR 593.* In this decision, the Supreme Court found that the use of terms such as 'avoid' has an ordinary meaning of "not allow" or "prevent the occurrence of".<sup>41</sup> As a result of this interpretation, the language used within Policies 11, 13 and 15 (being as directive as it is) therefore effectively establishes 'bottom lines' as the policies all seek to avoid (i.e. not allow or prevent the occurrence of) certain effects in the interests of protecting indigenous biodiversity (Policy 11), preserving natural character (Policy 13) and protecting natural features and landscapes (Policy 15).

Subsequent decisions have further emphasised the significance of 'directive' NZCPS policies. For example, in the *Davidson* decision, 42 the Court of Appeal held that when considering whether to grant RMA authorisations, it is not appropriate to override directive NZCPS and regional (including "avoid") policies through the (previously orthodox) balancing of positive and adverse effects of the project overall. The litigation around the effect of the NZCPS in planning and consenting decisions is continuing.

Against the backdrop of this jurisprudence, subsequent experience has shown that the NZCPS (and plans prepared post the gazettal of the NZCPS) can present some significant consenting challenges for any new development in the coastal marine area. In places of outstanding or high natural character or landscape value, or where ecological values are significant, the 'avoid' language in Policies 11, 13 and 15 (and the policies in corresponding lower-order plans) can effectively act as a bar to consents being able to be obtained. With



<sup>41</sup> Note that decision makes exceptions for minor or transitory effects.

<sup>&</sup>lt;sup>42</sup> R.J Davidson Family Trust v Marlborough District Council [2018] NZCA 316.

respect to other less sensitive or significant indigenous biodiversity, natural character, natural features and natural landscapes, a lower threshold applies whereby only significant adverse effects are required to be avoided and other adverse effects can be mitigated or remedied, but that can still present significant consenting hurdles. The strict interpretation of these provisions could potentially create a consenting challenge for some Priority Units.

When applied to the current context, it is important to note that HDC has recently reviewed its District Plan, including updates to the mapping of indigenous biodiversity, natural character and natural landscape areas. NCC is currently in the process of undertaking a similar piece of work as part of its District Plan review process. Based on the HDC mapping and discussion documents released by NCC to date with respect to the Proposed Plan, none the of the Priority Units as holding values of outstanding significance. These documents relate however, to land above mean high water springs.

Below mean high water springs, there appears to be a gap in the Regional Coastal Plan with respect to the mapping and expression of areas of indigenous biodiversity, natural character and natural landscape value. This is not uncommon for regional coastal plans prepared before the 2010 NZCPS was gazetted nor plans prepared in a "post King Salmon" regulatory environment where a greater degree of certainty is typically expected by submitters with respect to the mapping of such features, due to the environmental bottom lines associated with provisions that seek to manage effects with respect to these areas.

In the absence of such information within the Regional Coastal Plan it would be prudent to undertake further natural indigenous biodiversity, natural character and natural landscape assessments as part of the development of the short-term adaptation responses to understand the extent to which each Priority Unit may or may not be affected by Policies 11, 13 and 15. This will inform the extent to which the interpretation of these policies may present a barrier to the future consenting of the adaptation responses.

Furthermore, in light of the environmental "bottom lines" resulting from the interpretation of NZCPS provisions, it would be prudent for future policy and plan reviews to carefully map areas of indigenous biodiversity, natural character and natural landscape. This would provide certainty to plan users around the degree to which provisions designed to give effect to the NZCPS may apply to any given site. Depending on the sequencing and robustness of such work, it may negate the need for similar assessments to be repeated as part of the site scoping and resource consent acquisition process for each of the Priority Units.

#### Policy 17 Historic Heritage Identification and Protection

Policy 17 seeks to protect historic heritage in the coastal environment from inappropriate subdivision, use, and development.

Objective 5, Policy 24 Identification of coastal hazards, Policy 25 Subdivision, use and development in areas of coastal hazard risk, Policy 26 Natural defences against coastal hazards, and Policy 27 Strategies for protection of significant existing development from coastal hazard risk

Objective 5 specifically relates to coastal hazards. The objective seeks to ensure that coastal hazard risks, taking account of climate change, are managed by locating new development away from areas prone to such risks, considering responses (including managed retreat) for existing development in this situation and protecting or restoring natural defences to coastal hazards.

Policy 24 of the NZCPS specifically relates to the identification of coastal hazards. The policy requires the identification of areas that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas affected by high risk. The policy then sets out the matters of regard when assessing hazard risk over a 100-year period, and also requires that national guidance be taken into account

Policy 25 relates to subdivision, use and development in areas of coastal hazard risk over at least the next 100 years. In these areas, the policy seeks to <u>avoid</u> increasing the risk of social, environmental and economic harm from coastal hazards and <u>avoid</u> redevelopment or change in land use that would further increase the risk of adverse effects from such hazards. Redevelopment or change in use that reduces the risk of adverse effects, such as through managed retreat, is encouraged by policy, while the use of hard protection structures is generally discouraged over natural defences.

Policy 26 seeks to encourage the use of natural defences against coastal hazards. Where appropriate, the policy aims to provide for the protection, restoration or enhancement of natural defences that protect coastal land uses, or sites of significant biodiversity, cultural or historic heritage or geological value, from coastal hazards. The policy recognises that such natural defences include beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands.

Policy 27 relates to strategies for the protection of significant existing development from coastal hazard risk. In areas of significant existing development likely to be affected by coastal hazards, Policy 27 encourages that a range of options be considered and assessed for reducing coastal hazard risk. When undertaking this evaluation, the policy focuses on management approaches that reduce the need for hard protection structures and similar interventions. The policy seeks to ensure that the environmental and social costs of permitting hard protection to protect private property is considered, and where



considered necessary, their form and location are designed to minimise adverse effects on the coastal environment.

#### COMMENTARY

In light of case law, Policy 25 effectively prohibits any activity that would increase the risk of harm or adverse effects of coastal hazards. The proposed short-term adaptation pathways are designed to reduce the risks associated with coastal hazards and with appropriate effects management and mitigation, would unlikely be captured by this policy. By contrast, this policy would likely capture new development or land use activities (for example, residential activity) and prevent them from establishing if they increase the risk of harm or adverse effects of coastal hazards.

Both Policies 25 and 26 set out a clear preference of natural defences to be used over hard protection structures. Hard protection structures are discouraged in Policy 25, while Policy 27 states that where hard protection structures are considered to be necessary (generally once other options have first been discounted), it must be ensured that the form and location of any structures are designed to minimise adverse effects on the coastal environment, and should not be located on public land if there is no significant public or environmental benefit in doing so. The lack of unfettered policy support for hard protection structures fails to recognise the opportunities that they provide Councils and communities to "buy time" to:

- develop a plan around how and where to gradually migrate assets and infrastructure away from the coast;
- undertake a cost benefit evaluation around whether it is operationally, technically or financially feasible to relocate such assets and infrastructure, who or how any relocation or upgrade works are paid for;
- complete engineering and concept designs;
- > obtain the relevant RMA approvals for the relocated assets and infrastructure; and
- construct and implement the mitigation response (be it hard protection, soft or natural protection or managed retreat) both on the coastal site and if relocating, at the new site.
- Meet the new policy guidance from government to follow Dynamic Adaptive Pathways Planning ("DAPP") in dealing with coastal hazards

While Policies 24 to 27 have not previously created any challenges for the small number of consent applications for hard protection structures between Clifton and Tangoio (for example, the granting of sea walls at Whakarire Avenue in Napier, or a new revetment at Clifton), there are examples from other parts of New Zealand where such structures have been declined (for example, Wainui Beach in Gisborne). These are discussed in section 6



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of the companion report<sup>43</sup> to this policy and regulatory review regarding the consentability of the short-term adaptation responses. Future resource consent applications will therefore need to carefully navigate through the NZCPS generally, including each limb of Policies 24 to 27 to demonstrate how the proposed adaptation pathways are overall consistent with these provisions.

As a national level document, HBRC, NCC and HDC have to give effect to the NZCPS in their policy development and decision-making functions. However, the fact is the Strategy, which followed an extensive community-led process and was adopted by the Councils, includes many hard protection adaptation pathways, the Councils should therefore continue to look for opportunities to present these "real world" adaptation preferences to Central Government and the Ministry of Conservation and highlight the potential mismatch of this group of policies which will inevitability impact on the vulnerable communities between Clifton to Tangoio to deliver their preferred short and long term management responses to coastal hazards and sea level rise. When liaising with Central Government, it is particularly important to identify that the Strategy was in general accordance with the latest Central Government guidance for coastal hazards, including DAPP which requires all potential pathways to be considered, including hard protection structures.

A potential solution that could be explored at this level is development of a new national policy statement focused on coastal hazard management (or natural hazards more broadly) and adaptation. This new policy statement could set out clear roles and responsibilities, establish a framework for balancing the environmental effects of hazard management and adaptation responses, and identify an agreed set of planning parameters to be applied to sea level rise and climate management (for example, rate of sea level, rate of temperate increase, etc). The latter could be reviewed and updated annually based on the most up-to-date data in this area. A recent case study by the Ministry for the Environment into the Strategy (refer to Section 3.3.2) shows growing support for such an approach. There is also the potential to review and amend the NZCPS over time, or for specific legislation to ensure that coastal hazard strategies such as this one can be implemented.

#### 3.2.2 National Policy of Urban Development Capacity 2016 and the Proposed National Policy of Urban Development

NPS-UDC recognises the national significance of urban environments and the need to enable such environments to develop and change, and also seeks to provide sufficient

<sup>&</sup>lt;sup>43</sup> Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Consentability of Short-term Adaptation Responses, Stage 4 Clifton to Tangolo Coastal Hazard Strategy 2120.



development capacity to meet the needs of people and communities and future generations in urban environments.

The Government recently consulted on a proposed National Policy Statement for Urban Development ("Proposed NPS-UD"). The Proposed NPS-UD would replace the NPS-UDC. The Proposed NPS-UD would build on many of the existing requirements for greater development capacity. It would broaden its focus and add significant new content.

The Napier-Hastings area was identified as a medium growth area in 2018. Accordingly, the respective NCC and HDC must ensure that there is sufficient housing and business land capacity zoned and serviced in the short (0-3 years), medium (3-10 years) and long term (10-30 years). While addressed further in Section 3.4.2 with respect to the Heretaunga Plains Urban Development Strategy, it is important that in meeting the requirements of the NPS-UD) the respective Councils do not inadvertently intensify existing or establish new areas of housing and business type land uses within areas exposed to coastal hazard risks (as per the focus of this report). The recent sub-regional industrial land study undertaken by NDC and HDC suggests that these areas are largely being avoided for industrial purposes, with the exception of the existing industrial areas within the Pandora and Ahuriri Priority Units. Extensive adaptation responses are proposed for these areas, both over the short to long-term.

#### 3.3 REGIONAL AND DISTRICT POLICY STATEMENTS AND PLANS

The purpose of regional policy statements ("RPS") is to achieve the purpose of the RMA by providing an overview of the natural resource management issues of the region and to identify policies and methods to achieve integrated management of natural and physical resources of the whole region. 44 Regional and district plans assist a regional or district council to carry out those functions in order to achieve the purpose of the RPS, any relevant NPS and ultimately, the RMA. 45

Of relevance to this evaluation are the following RPS and regional and district plans:

- Hawke's Bay Regional Resource Management Plan ("Regional Resource Management Plan");
- Hawke's Bay Regional Coastal Environment Plan ("Regional Coastal Environment Plan");
- Hastings District Plan; and,
- > City of Napier District Plan.



<sup>44</sup> Section 59 of the RMA.

<sup>45</sup> Section 63 of the RMA.

#### 3.3.1 Hawke's Bay Regional Resource Management Plan

The Regional Resource Management Plan sets out the policy and rule framework for the management of resource use activities in Hawke's Bay and includes an operative Regional Policy Statement.

The RPS seeks to set out the strategic direction that the HBRC and local authorities will take to achieve the purpose of the RMA. As the RPS is required to give effect to Part 2 of the RMA and the NZCPS, its objectives contain similar themes to this higher order document. The RPS is not as directive as the NZCPS, however, it predates the current NZCPS being made operative in 2010 and therefore does not give full effect to the NZCPS.

Key themes of relevance to the implementation of the short-term adaptation responses within the RPS include:

- Preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development.<sup>46</sup>
- The protection of coastal characteristics of special significance to iwi, including w\u00e4hi tapu, taurangawaka, taonga raranga, mahinga kai and mahinga mataitai. 47
- The avoidance of further permanent development in areas prone to coastal erosion or inundation, considering the risk associated with global sea level rise and any protection afforded by natural coastal features. 48
- The preservation and enhancement of remaining areas of significant indigenous vegetation, significant habitats of indigenous fauna and ecologically significant wetlands.<sup>49</sup>
- The avoidance or mitigation of the adverse effects of natural hazards on people's safety, property, and economic livelihood. 50
- To recognise tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions,<sup>51</sup> and consult with Maori in a manner that creates effective resource management outcomes,<sup>52</sup>



Objective OBJ4, Hawke's Bay Regional Resource Management Plan.

Objective OBJ7, Hawke's Bay Regional Resource Management Plan.

<sup>40</sup> Objective OBJ8, Hawke's Bay Regional Resource Management Plan.

Objective OBJ15, Hawke's Bay Regional Resource Management Plan.

Objective OBJ31, Hawke's Bay Regional Resource Management Plan.
 Objective OBJ34, Hawke's Bay Regional Resource Management Plan.

<sup>52</sup> Objective OBJ35, Hawke's Bay Regional Resource Management Plan.

The RPS does not contain any policies to guide how to achieve these objectives within the coastal environment. It defers this role to the Regional Coastal Environment Plan.

#### COMMENTARY

As the highest regional planning document under the RMA, there is potential for the RPS to provide much greater clarity and direction around how coastal hazards should be managed within the Hawke's Bay region. Due to the hierarchy of planning documents, a greater focus on such matters within the RPS will ensure alignment and co-ordination of the management response for coastal hazards in the region, as all regional and district plans must "give effect to" the RPS.

The Strategy is currently a "non-statutory" document and therefore does not carry the same weight as provisions within the RPS. By inserting a targeted objective within the RPS that seeks to achieve coastal hazard management outcomes consistent with the Strategy, coupled with one or two policies which guide how to achieve this, the Strategy would, by reference, have greater statutory weight in the subsequent plan making and resource consent decision making processes. These proposed new provisions should focus on the strategy from two distinct but inter-related lens – one that enables outcomes consistent with the Strategy (i.e. the introduction of hard and soft adaptation response), and one that dissuades outcomes inconsistent with the Strategy (i.e. intensification of land use activities that are inconsistent with the Strategy).

The RPS was made operative in 2006 and is therefore overdue for review.<sup>53</sup> The Ministry for the Environment has also recently released new national planning standards designed to streamline and create consistency in the style and form of planning documents throughout New Zealand.

HBRC, HDC and NCC have five years, or until November 2024 to implement the national planning standards. This would present an opportune time to include the Strategy related objectives and policies into the RPS.

#### 3.3.2 Hawke's Bay Regional Coastal Environment Plan

The Regional Coastal Environment Plan is the primary planning instrument under the RMA that sets out the framework for managing resource use activities within the Coastal Marine Area and coastal environment of the Hawke's Bay. It is noted that the NZCPS took effect after decisions on submissions on the Regional Coastal Environment Plan were notified in July 2008. This means that the Regional Coastal Environment Plan cannot be taken as

Under section 79 of the RMA, Council's must commence a review of their plans and policy statements within10 years of becoming operative.



having given full effect to the NZCPS, therefore necessitating the assessment of plan changes and applications for discretionary or non-complying activities against the NZCPS. It is also noted that, for this reason, the NZCPS is likely to carry greater weight in any planning assessment on matters that the RCEP does not currently fully give effect to.

The key provisions contained within the Regional Coastal Environment Plan that are likely to have greatest bearing on implementation of the adaptation responses is set out in the following sections.

#### Matters of National Importance

The Regional Coastal Environment Plan identifies a number of "Matters of National Importance". This includes a suite of objectives and policies relating to natural character, outstanding natural features and landscapes, indigenous species and habitats, public access, cultural matters and historic heritage.

#### COMMENTARY

As of April 2017, the management of significant risks from natural hazards is a matter of national significance under section 6 of the RMA. Natural hazard management should therefore be elevated within the Regional Coastal Environment Plan to reflect that it sits among these significant matters. As per the recommendation to include an objective and policy suite within the RPS to recognise and provide for the outcomes sought in the Strategy, this section of the plan should also look to include a similar policy suite at a strategic level that gives effect to the RPS.

These "gap" in the Regional Coastal Environment Plan is likely a consequence of timing, with the Regional Coastal Environment Plan predating the April 2017 amendments to the RMA.

#### Natural Character

The Regional Coastal Environment Plan seeks to preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development. <sup>54</sup> To achieve this outcome, key provisions:



Objective 2.1, Hawke's Bay Regional Council Coastal Environment Plan.

- recognise that protecting areas of significant indigenous vegetation, significant habitats of indigenous fauna and historic heritage, assists in preserving natural character of the coastal environment;<sup>55</sup>
- promote the location of future use and development in areas of the coastal environment which are already significantly modified by similar activities; 56
- recognise and provide for appropriate use and development provided any adverse effects on the coastal environment's natural character arising from such use and development are avoided, remedied or mitigated.<sup>57</sup>
- Promote, where practicable, the protection and enhancement of natural values and features (including migration of natural features as a result of coastal processes) that provide a natural buffer against coastal erosion and inundation. These features include dunes, gravel barriers, active offshore sediment reservoirs, inter-tidal rock platforms, reefs and indigenous coastal vegetation. 58

#### COMMENTARY

While ordinarily directive provisions that seek to preserve and protect the coastal environment would create a significant consenting challenge for activities within the coastal environment, the plan has qualified that these measures relate to "inappropriate" subdivision, use and development. The subsequent policies provide further guidance around what might be considered "appropriate" or "inappropriate" in the circumstances.

Specifically, the plan encourages that activities are located in already modified environments, that the adverse effects should be avoided, remedied or mitigated and where practicable, the protection and enhancement of natural values and features should be promoted where they provide a natural buffer against coastal hazards.

2014<sup>59</sup> and 2019<sup>50</sup> reviews of the Regional Coastal Environment Plan identified that a number of amendments are required to ensure the plan gives full effect to the NZCPS. It is therefore likely that future reviews of the Regional Coastal Environment Plan will bring the provisions into greater alignment with Policy 13 of the NZCPS. As noted earlier with respect to the NZCPS, if any of the Priority Units exhibit outstanding natural character, any adverse effects on that character will need to be avoided, irrespective of the benefits that

O'Callaghan, 2019. Draft Hawke's Bay Regional Coastal Environment Plan RMA Section 35: Efficiency and Effectiveness Report.



Policy 2.2, Hawke's Bay Regional Coastal Environment Plan.

Policy 2.3, Hawke's Bay Regional Coastal Environment Plan.

Policy 2.4, Hawke's Bay Regional Coastal Environment Plan.

Policy 2.11, Hawke's Bay Regional Coastal Environment Plan.

Van Voorthuysen, 2014. Gap Analysis of Hawke's Bay Regional Council's Regional Coastal Environment Plan against the NZCPS 2010.

any future mitigation measures might provide. With respect to other less significant natural character, a lower threshold applies whereby only significant adverse effects are required to be avoided. This could create potential consenting challenges for Priority Units where outstanding values are held, or where the effects on natural character are considered to be significant. This equally applies to areas of with natural feature, natural landscape and indigenous biodiversity value.

Based on existing mapping contained within the Hastings District Plan, the discussion documents relating to the Proposed Napier District Plan and the Proposed Hawke's Bay Regional Resource Plan, only one of the Priority Units (the water based areas of the Ahuriri Unit) is considered "Outstanding", although it may be timely to double-check these findings as we have recommended. The remaining Priority Units may, however, hold lesser natural character values where significant adverse effects would have to be avoided. It would be prudent to undertake some baseline studies to identify the natural character value of each Priority Unit and identify the extent to which the proposed adaptation pathways may adversely impact on those values. A similar analysis should be undertaken of natural feature, natural landscape and indigenous biodiversity values of these areas.

It would also be beneficial if such areas were also mapped as part of any future Regional Coastal Environment Plan review processes to provide greater clarity and certainty for plan users. This will also assist in the quantification of costs and benefits in terms of section 32, as it will clear where potential social, environmental, cultural and economic costs or benefits accrue from any new provisions that give effect to the NZCPS.

#### **Outstanding Natural Features and Landscapes**

The Regional Coastal Environment Plan seeks to protect the outstanding natural features and landscapes within the coastal environment from inappropriate subdivision, use and development. 61 To achieve this outcome, key provisions:

- protect the physical and ecological values of estuaries and river mouths in the coastal environment;<sup>62</sup>
- ensure estuarine habitats and physical processes are used or developed in a way that avoids, remedies or mitigates adverse effects on the biological integrity of the estuarine system;<sup>63</sup>



Objective 3.1, Hawke's Bay Regional Council Coastal Environment Plan.

Policy 3.4, Hawke's Bay Regional Coastal Environment Plan.

es Policy 3.6 Hawke's Bay Regional Coastal Environment Plan.

- promote the restoration and rehabilitation of areas that have been degraded by past activities.<sup>64</sup>
- map 21 Significant Conservation Areas across the HB region's coastal marine area.
  Only two of those SCAs are within the coastal marine area between Clifton to Tangoio.

As identified earlier, proposed Plan Change 7 to the Hawke's Bay Regional Resource Plan identifies the Ahuriri Estuary as an Outstanding Waterbody. Submissions on Proposed Plan Change 7 have closed and a hearing is scheduled later in 2020.

#### COMMENTARY

These provisions require that the Ahuriri Estuary is protected from "inappropriate subdivision, use and development". In order to achieve to this outcome, any resource consent application to implement the adaptation responses within the Pandora and Ahuriri Priority Units will need to demonstrate that the proposed coastal protection structures are "appropriate" in a given circumstance and that the effects have generally been "avoided, remedied or mitigated". This is not a particularly high threshold for outstanding natural features and landscapes and is therefore not likely to present significant consenting challenges for the Pandora or Ahuriri Priority Units (located adjacent to and in part, within the Ahuriri Estuary).

As noted above, further baseline studies should be undertaken to confirm a pathway through Policy 15 of the NZCPS.

#### Indigenous Species and Habitats

The Regional Coastal Environment Plan seeks to protect areas of regionally and nationally important ecosystems, significant indigenous vegetation or regionally or nationally significant habitats of indigenous fauna from inappropriate subdivision use and development. To achieve this outcome, the key relevant policies seek to:

Ensure adverse effects on ecological systems (including natural movement of biota, natural biodiversity, productivity and biotic patterns) are avoided.<sup>66</sup> Except for areas containing nationally vulnerable species or nationally outstanding examples of indigenous community types, where avoidance is not practicable, adverse effects are to be remedied or mitigated.<sup>67</sup>



Policy 3.5 Hawke's Bay Regional Coastal Environment Plan.

Objective 4.1, Hawke's Bay Regional Coastal Environment Plan.

Policy 4.1 Hawke's Bay Regional Coastal Environment Plan.

<sup>&</sup>lt;sup>67</sup> Policy 4.2, Hawke's Bay Regional Coastal Environment Plan.

- Protect ecological values of existing estuaries and river mouths in the coastal environment. 68
- Ensure adverse effects on cultural, ecological, historic, geological, and scenic values of Significant Conservation Areas are avoided, remedied or mitigated. 69

#### COMMENTARY

Provided the proposed site works do not give rise to adverse effects on any nationally vulnerable species or nationally outstanding examples of indigenous community types, and, in the case of Pandora, does not give rise to adverse effects on the ecological values of the estuary, it is anticipated that all other effects on indigenous species and habits will be able to be avoided, remedied or mitigated in line with the key policy directives.

As noted above, further baseline studies should be undertaken to confirm a pathway through Policy 11 of the NZCPS.

#### Natural Hazards

The Regional Coastal Environment Plan seeks to avoid or mitigate the risks posed to people and property by natural hazards <sup>70</sup> and avoid new and further inappropriate development in areas identified as being at risk of coastal erosion or inundation. <sup>71</sup> To achieve this outcome, the Plan seeks to manage coastal erosion and inundation risk through environmental guidelines <sup>72</sup> which, at a high level:

- Proactively manage coastal hazards, including through:
  - Seeking the avoidance of new development in areas that are or have potential to be subject to coastal hazards;
  - maintaining and enhancing natural values and features that provide a buffer against coastal erosion and inundation;
  - relocation and removing existing uses and development from at risk coastal areas;
  - evaluating and if appropriate, implementing, activities that mitigate coastal hazard risk (for example, beach renourishment); and,



Policy 4.3, Hawke's Bay Regional Coastal Environment Plan.

Policy 4.4, Hawke's Bay Regional Coastal Environment Plan.

Objective 15.1, Hawke's Bay Regional Coastal Environment Plan.

Objectives 15.2 and 15.3, Hawke's Bay Regional Coastal Environment Plan.

Policy 15.1, Hawke's Bay Regional Coastal Environment Plan.

- evaluating, if appropriate, implementing (subject to point below) permanent structures (for example, sea walls, groynes, artificial reefs) to mitigate coastal hazards.
- Identify coastal hazard areas based on most recent or updated information and science and review areas subject to, or likely to be subject to such hazards and ensure they are managed in an integrated way.
- Encourage foreshore protection, particularly those that provide a natural buffer against coastal erosion and inundation.
- Managing existing subdivision, use and development, including by:
  - Avoiding further development of within areas subject to coastal hazards, unless it is for a temporary activity, it protects or enhances natural mitigation features, the hazard risk is less than minor,
  - Considering the removal of existing uses and avoidance of further development as a means of managing coastal hazards.
  - Recognising and providing for local authorities' existing structures, facilities and infrastructure activities within coastal hazard zones; and,
  - Permitting activities that have a less than a minor effect on exacerbating coastal hazards, and structures for public recreation facilities.
- Managing new use and development, including by not locating such activities in coastal hazard areas unless it is for a temporary activity or protects or enhances natural features (for example, dunes, wetlands, gravel barriers, intertidal rock platforms) between existing development and the sea, or it presents a less than a minor risk of exacerbating coastal hazards.
- Discouraging new and further subdivision within area subject to coastal hazards unless it presents a less than minor risk of exacerbating hazard.
- Not allowing deposition and removal of sediment (and other earthworks) in coastal hazard areas, unless it is for a temporary activity, protects or enhances natural features (for example, dunes, wetlands, gravel barriers, intertidal rock platforms) and it presents less than a minor risk of exacerbating coastal hazards;
- Recognising and providing for local authorities to carry our hazard mitigation works. Such work shall, to the greatest extent practicable, avoid adversely affecting public access, natural character, dynamic coastal processes, historic heritage, landscape and ecological values in the coastal environment. Recognition and provision should be made for the ongoing renourishment of Westshore Beach as an appropriate means of mitigating coastal hazard effects.
- Only using coastal protection structures to mitigate coastal hazards when:



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- it is the best practicable option<sup>73</sup> and no other non-structural alternative is effective or feasible to reduce coastal hazard risk;
- the structure is located and designed so as to avoid adverse environmental effects to the greatest extent practicable; and
- the structure is to has a functional need to locate in the coastal marine area and protects existing development.

In applying the above policies, the Regional Coastal Environment Plan primarily focuses on coastal erosion and inundation. Tsunami is not addressed within the Regional Coastal Environment Plan (though it is included in the definition of "natural hazard").

#### COMMENTARY

Implementation of adaptation responses – coastal protection structures

The policy directives within the Regional Coastal Environment Plan are generally supportive towards soft over hard coastal protection structures. As noted with respect to the NZCPS, this approach fails to recognise the benefits that hard coastal protection structures can provide, at least in the short-term, for establishing longer term plans around hazard protection and/or managed retreat. While the natural hazard provisions do not preclude hard coastal protection structures measures from being established, the policy framework is more onerous for such structures.

In a companion report to this policy and regulatory review, Mitchell Daysh undertook a high-level evaluation of the consentability of the short-term adaptation responses. As identified in this report, consenting of coastal protection structures generally requires a number of ancillary resource consents. The activity status for coastal protection structures also generally attracts a non-complying activity status despite their being an inherent need for such structures to typically be located within the coastal environment. The complex consenting requirements are inefficient and do not reflect that by the time Stage 4 workstreams are complete, the Strategy will have been through a decision-making process that presumably will be subsequently endorsed by HBRC, NCC and HDC. There would be merit seeking amendments to the Regional Coastal Environment Plan that are more enabling of outcomes consistent with the strategy once finalised.

Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Consentability of Short-term Adaptation Responses, Stage 4 Clifton to Tangolo Coastal Hazard Strategy 2120.



<sup>&</sup>quot;Best practicable option" is a phrase used in a number of provisions within the Regional Coastal Environment Plan. This phrase is used in the RMA with respect to discharges and noise and not typically in this particular context.

Similar to the RPS, it would be prudent to include new streamlined objectives, policies and methods into the Regional Coastal Environment Plan. These objectives should be supportive of outcomes consistent with the Strategy, subject to the appropriate management of effects. Policies to implement the objectives would be more granular and provide guidance around how different types of coastal protection structures are to be managed. With respect to methods, a more simplified approach should be considered where the coastal protection structures in line with the Strategy are subject to a tailored set of consent requirements with specific development standards providing an opportunity for the consent status to increase as the nature and scale of effects increases. For example:

- A new rule(s) relating to coastal protection structures within the coastal marine area which depending on size and the nature and scale of anticipated effects, could be a controlled activity, moving towards discretionary;
- A new rule relating to discharges associated with the construction, maintenance and use of coastal protection structures within the coastal marine area;
- A new rule relating to the occupation of the coastal marine area by coastal protection structures.

Such an approach would simplify the analysis of consents required under the Regional Coastal Environment Plan and would provide greater certainty and clarity around the matters to be considered for any particular resource consent for the adaptation responses.

Implementation of adaptation responses – land use activities

With respect to the intensification of land use activities within the Strategy area, the Regional Coastal Environment Plan sets a clear expectation that new development within coastal hazard areas should be avoided, and that existing subdivision, use and development should be discouraged within coastal hazard areas unless the hazard presents a less than minor risk. With the exception of new buildings within the Coastal Hazard 1 Zone, the methods do not appear to match this expectation (Table 2).

The only condition imposed on the permitted extensions to existing buildings and structures is that they must not project further seaward than the existing structure. With respect to the restricted discretionary activities, the matters of discretion relate to:

- the intended purpose of the structure;
- effects on health and safety;
- effects of the use of land on coastal processes;
- probability and magnitude of erosion and inundation;
- methods to avoid or mitigate coastal hazard; and



degree of protection works that have been carried out at the property.

Table 2: Summary of land use activity status within the Regional Coastal Environment Plan.

Activity	Coastal Hazard Zone 1	Coastal Hazard Zone 2
Extension to existing building or structure (less than 20m2)	Restricted Discretionary75	Permitted76
New buildings or structures or extension to existing building or structure greater than 20m2.	Non-complying77	Restricted discretionary78

These matters of discretion are reasonably broad and do not establish a particularly high barrier for justification of new or extensions to existing structures. This does not assist the Council with addressing long term risk and the moral hazards (discussed later in this report) that arise as result. The discrepancy between the policy and methods was also identified by HBRC staff as one of the key deficiencies in the natural hazard framework of the Regional Coastal Environment Plan. 79

Given that managed retreat or retreat the line has been identified as the long term outcome (i.e. 50 to 100 year) for a number of Priority Units and in light of the 100 year coastal planning timeframe set out in the NZCPS, the policy directives seeking to manage land use, subdivision and development within coastal hazard areas would benefit from further strengthening to ensure that this long term outcome is being achieved. As an important corollary, the methods would also benefit from further tightening to ensure that new subdivision, use and development is the exception rather than the rule, or alternatively, that land use consents are issued for a short duration rather than in perpetuity. This would enable the ongoing use of areas not at immediate risk of coastal erosion and could include rules that only allow, for example, relocatable homes in these areas until a certain trigger point is reached. Such triggers need to consider natural hazard risk as well as the servicing costs imposed on Council and other utility operators associated with maintaining and renewing services in such areas.

<sup>&</sup>lt;sup>79</sup> Draft Hawke's Bay Regional Coastal Environment Plan RMA Section 35: Efficiency and Effectiveness Report, dated October 2019.



<sup>75</sup> Rule 90, Hawke's Bay Regional Coastal Environment Plan.

Rule 89, Hawke's Bay Regional Coastal Environment Plan.

<sup>77</sup> Rule 95, Hawke's Bay Regional Coastal Environment Plan.

Rule 102, Hawke's Bay Regional Coastal Environment Plan.

#### Moral Hazard

Moral hazard can be defined as a situation where an individual has an incentive to increase their exposure to risk because they do not bear the full costs of that risk or that risk can be passed on. In the present context, an example of moral hazard would be purchasing property within the Priority Units in the knowledge that the in the short-term, the Council intends to install coastal protection measures for which they will not have to bear the full costs.

By comparison, residual risk can be described as the risk remaining after the implementation or undertaking of risk management measures. In the present context, it refers to the risk of a short-term adaptation response being overwhelmed, overtopped or damaged during a coastal hazard event or unrelated events (such as earthquake) that may undermine its integrity. Despite the residual risk that remains behind a coastal protection structure, a heightened sense of security can persist for those with land and/or assets being protected by these structures.

Based on the above discussion regarding the land use planning framework within natural hazard areas, the Regional Coastal Environment Plan lacks the policy dissuasion to slow or prevent an increase in moral hazard and residual risk. Strengthening the provisions to require the avoidance of development inconsistent with the Stage 3 Strategy outcomes would make it more difficult to undertake plan changes, subdivision and development in these areas, however this will need to be coupled with similar changes to the relevant District Plans due to jurisdiction of land use, subdivision and development. Over the longer term, this will likely result in a gradual migration of activities from these areas. Taking such measures now is imperative to avoid long lasting coastal hazard management issues, as has been observed in other areas of New Zealand, such as Ruby Bay in Tasman District (refer to section 4.1).

If an area has been identified as been subject to significant natural hazard risk and it poses a more immediate threat to human health and safety, the Regional Coastal Environment Plan could be amended to go a step further than current rules do and extinguish the existing use rights of landowners within such areas. This approach has recently been adopted in the Bay of Plenty by the Whakatāne District Council (refer to section 4.2). This was a landmark decision and a New Zealand first. At the time of preparing this report, the period for filing appeals with respect to this decision was still open.

#### Public Access and Amenity

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The Regional Coastal Environment Plan has a strong focus on public access and amenity.

Key provisions seek to maintain and enhance public access to and along the coastal marine area while recognising the need to protect certain areas for ecological, cultural,



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historic heritage, health, safety, or security (including biosecurity) reasons.80 This includes by enabling appropriate tangata whenua access to their traditional fishing grounds and other sites of cultural significance within the coastal marine area in accordance with tikanga Maori. 81

#### COMMENTARY

The majority of the Strategy's proposed adaption responses could allow for public access to the coastal environment. For example, the proposed groyne fields and inundation and extension to the Clifton sea wall will enable the continued public access and enjoyment of the coast and beach. For other areas such as Pandora, there will likely be opportunities to enable public walking access adjacent to or upon the proposed structures and to continue to provide public access to the adjacent coastal environment.

#### Disturbances, depositions and extractions in the coastal marine area

Key provisions seek to avoid, remedy or mitigate the adverse effects associated with the deposition of substances within the coastal marine area. 82 To achieve this outcome, the Plan seeks to manage the deposition and extraction of material within the coastal marine area and the disturbance of the foreshore and seabed in accordance with environmental guidelines83 which, at a high level:

- Avoid deposition on the foreshore and seabed within Significant Conservation Areas (i.e. the Ahuriri Estuary) and otherwise, minimising adverse effects on indigenous flora, fauna, benthic organisms and their habitats. Deposition should also only occur where the sediment is of a similar particle size to the deposition site, at times and rates that minimise effects on flora and fauna, water quality, recreation and commercial activities and cultural and social values
- Discourage disturbance of the foreshore and seabed in areas likely to be subject to coastal hazards unless it is for a temporary activity, protects or enhances natural hazard mitigation buffers, presents a less than minor risk of exacerbating coastal hazards, or it provides for deposition activities within the coastal marine area which help renourish beaches adjacent to existing development areas that are at risk of coastal hazards.



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Objective 5.1, Hawke's Bay Regional Coastal Environment Plan.

Policy 5.6, Hawke's Bay Regional Coastal Environment Plan.

Objective 17, Hawke's Bay Regional Coastal Environment Plan.

Policy 17.1, Hawke's Bay Regional Coastal Environment Plan.

Disturbances in Significant Conservation Areas will not be provided for unless for environmental enhancement.

#### COMMENTARY

The NZCPS proposition that natural barriers for coastal hazard management should be encouraged filters through the provisions in the Regional Coastal Environment Plan relating to disturbance, deposition and extraction activities within the coastal marine area.

By contrast, there is limited acknowledgement or support of disturbance, deposition or extraction activities relating to hard coastal protection structures.

With respect to the Pandora and Ahuriri priority units, it is important to note that the Ahuriri Estuary is identified as a Significant Conservation Area. While the proposed inundation structures for both Priority Units will only traverse the outer edge of this area, the policy directive for these areas is for disturbance activities to be avoided. If a finer grained analysis of the effects of the inundation measures proposed for these Priority Units (including any associated construction footprint) are found to be significant, this could present some consenting challenges for implementation of the adaptation responses within these units.

While the provenance of these provisions likely stems from the higher order NZCPS requirements around the indigenous biodiversity, a more simplified and targeted consenting approach for natural hazard structures would create a greater balance between these matters.

#### Structures and occupation of the Coastal Marine Area

The Regional Coastal Environment Plan seeks to avoid, remedy or mitigate the adverse effects on the environment arising from the development and use of structures and the occupation of the coastal marine area. <sup>84</sup> To achieve this outcome the plan seeks to manage structures and the associated occupation through guidelines which, at a high level (and insofar as they relevant to this report):

Require structures that have a functional need to locate in the coastal marine area not to adversely affect navigation channels, coastal processes and contribute to a proliferation of structures in the coastal marine area. Adverse effects on historic heritage, sites of cultural significance, indigenous flora, fauna, benthic organisms and their habitats, are avoided, or mitigated where avoidance is not practicable.

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<sup>94</sup> Objectives 18.1 and 2, Hawke's Bay Regional Coastal Environment Plan.

- Seek that structures and activities occupying space in the coastal marine area shall be established and operated in a manner that maximises public use and access, except where public access is inappropriate.
- Seek that structures in the coastal marine area should not be located in areas that are likely to be subject to coastal hazards, unless it is for a temporary activity, it protects or enhances natural mitigation buffers and the potential of exacerbating coastal hazard risk is less than minor. Structures should also only be used to mitigate coastal hazards when it is the best practicable option, the structure is to serve a use with a functional need in the coastal marine area, and the structure is located and designed so as to avoid adverse environmental effects to the greatest extent practicable, particularly effects on coastal processes and natural character.

#### COMMENTARY

Within these provisions there is a clear requirement for coastal protection structures to be the best practicable option, have a functional need to locate within the coastal marine area and for adverse effects to the avoided to the greatest extent practicable. As part of Stage 2 and 3 of the Strategy, a number of potential adaptation responses were considered for each Priority Unit before identifying the recommended adaptation pathways. This optioneering and evaluation processes will help demonstrate that each response has been through an iterative process which balances the best practicable option with environmental effect and community aspirations. These matters will have to be documented carefully as part of the consenting process.

The alternative adaptation response for the Pandora priority units includes a storm surge barrier. This was not identified as the preferred pathway for the Pandora Priority Unit. If an application is made for such a structure, a revised analysis as to why this is now the most practicable option would be required.

#### 3.3.3 Hastings District Plan

The Hastings District Plan was made partially operative in February 2020. The Plan therefore gives effect to the NZCPS.

With respect to coastal hazards, the Hastings District Plan defers the management of land use and development within coastal hazard areas to the HBRC. This approach ensures that there is a single regulatory body administering the coastal hazard rules and avoids the potential for inconsistencies between the regional and district level administration of coastal hazards. The exception to this being at the time of subdivision and/or plan changes to the Hastings District Plan where jurisdiction for such matters rests with HDC.



The Hastings District Plan seeks to minimise the effects of natural hazards on the community85 and built environment and avoid increasing the risk to people, property, infrastructure and the environment. 86 This includes by:

- adopting and promoting the best practicable option (including mitigation or the 'do nothing' option) in the management of areas of existing development actually or potentially at risk from natural hazards. 87
- Managing land use activities in identified natural hazard areas where communities and resources are potentially at risk.88
- Adopting and promoting an avoidance approach to development located within areas of significant natural hazard risk, rather than mitigation or remedial measures. 89
- > Allowing Public Bodies exercising their statutory powers to carry out natural hazard mitigation activities. 90

Related subdivision provisions seek to avoid subdivision in localities where there is significant risk from natural hazards by ensuring that land being subdivided<sup>91</sup>, including any potential structure on that land, is not subject to material damage by the effects of natural hazards.92

#### COMMENTARY

Collectively, these provisions support both the need to implement coastal protection structures for the management of hazards as well as avoid subdivision within coastal hazard areas. The "avoidance" approach should, in theory, dissuade future plan changes and intensification of land uses within identified coastal hazard areas. If the underlying land is already zoned for residential type purposes (such as the Haumoana Te Awanga Residential Zone or the Coastal Settlement Zone), the objectives are slightly softened by objectives seeking to "avoid buildings and developments (including extensions) on parts of the coastal margin "most at risk" from erosion and inundation. 1 It is not clear however, what the basis of comparison is when evaluating areas "most at risk" (i.e compared to what?).

Adaptation measures often require district council consent as such activities are generally not anticipated within the underlying land use zone. For example, the proposed footings of coastal protection structures located at Haumoana, Te Awanga and Clifton will likely

- Objective NH01, Hastings District Plan.
- 86 Objective NH02, Hastings District Plan.
- <sup>87</sup> Policy NHP3, Hastings District Plan.
- Policy NHP2, Hastings District Plan.
- Policy NHP4, Hastings District Plan.
- 90 Policy NHP8, Hastings District Plan.
- Objective SLD03, Hastings District Plan.
- 92 Policy SLDP4, Hastings District Plan.



require consent as non-complying activity as such structures are not consistent with the underlying Open Space and/or Rural Zone purpose. While this did not recently hinder the granting of resource consent for the Clifton seawall application, it would create a more simplified process if the objectives, policies and methods relating to coastal protection measures were amended as part of the next plan review process to ensure all coastal hazard management and mitigation measures are located within a single plan chapter rather than reverting to the underlying land use zone (or only reverting for key matters as relevant for each zone).

#### Coastal Environment Strategy

The Hastings District Plan seeks to ensure that the integrated management regime contained within the Coastal Environment Strategy that protects, manages and develops the Coastal Environment is implemented. 93 The Coastal Environment Strategy was established in 2000 and emerged in recognition of the diversity of resources and management issues within the coastal environment and a general need to ensure an integrated management approach was being applied to both plan development and resource consenting.

While the Coastal Environment Strategy will be superseded by the current Strategy (once finalised), the management response for the coastal communities of Tangoio, Whirinaki, Haumoana, Te Awanga and Clifton are not drastically different from the Clifton to Tangoio Strategy. Specifically, the following outcomes are sought:

- Tangoio: the planned retreat of existing bach settlement and avoidance coastal ribbon development by limiting redevelopment so as to not prolong the reasonable building life of the baches;
- Whirinaki: promote a coastal care approach (avoiding built structures in the Coastal Hazard zone) to management of the shingle beach and reserve;
- Haumoana: Methods include identification of a Coastal Hazard Zone, planned retreat (for example through 'Transferable Development Rights and the promotion of community coast care schemes to rehabilitate natural defence mechanisms including the lagoons and wetlands, and establishment of reserves on vulnerable areas. Managing Flood Hazard: Further investigation on the effectiveness of the rules proposed in the District Plan's Flooding Inundation Resource Management Unit, including minimum floor levels (see Technical Paper #4).

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<sup>95</sup> Objective CE01, Hastings District Plan.

- Te Awanga: further investigations into the effectiveness of the rule proposed in the District Plans Flooding Inundation Resource Management Unit, including minimum floor levels:
- Clifton: Avoid and mitigate natural hazards by promoting planned retreat of existing structures (e.eg camping ground and public road) to safer areas inland.

While the policy is outdated and requires updating to reflect the Strategy, the outcomes sought are sufficiently similar that it should not result in perverse outcomes in the intervening period.

#### 3.3.4 City of Napier District Plan

NCC are currently reviewing the City of Napier District Plan and intend to publicly notify a draft district plan for comments by the end of 2020. The existing operative district plan will however continue to have legal effect for some time into the future until the submission and hearing process progresses for the proposed plan.

There are two separate coastal management regimes within the City of Napier District Plan one for the Westshore and Bay View area and a separate approach for the wider district.

The City of Napier District Plan identifies a "Coastal Hazard Zone" over the area of Westshore and Bay View. This area has been identified based largely on coastal hazard report prepared by Dr J Gibb titled "Review of the Coastal Hazard Zone Between Ahuriri Entrance and Esk River Mouth" and is based on the assumption that the existing renourishment programme at Westshore will continue to provide natural hazard mitigation for the areas of Westshore and Bay View located behind the hazard zone. Within this area, the Napier City Plan controls land use activities and development. Outside of these areas, management of such activities is controlled by the Regional Coastal Environment Plan as is the case for the rest of the Hawkes Bay Coastline. With the exception of the Westshore and Bay View area, this approach is therefore consistent with the HDC approach and ensures consistency in the administration of coastal hazard rules. Like with HDC, subdivision and applications for plan changes to the City of Napier District Plan remain within the jurisdiction of NCC.

The City of Napier District Plan seeks to manage the effects of natural hazards on land uses,34 including by controlling subdivision, use and development of land to ensure that risks to the community are avoided, remedied or mitigated, and ensuring that practical protection methods are considered.95 The Plan also seeks to control the effects of land uses and development on areas subject to natural hazards,95 including by directing



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<sup>54</sup> Objective 62.3, City of Napier District Plan.

Policies 62.3 and 62.3.4, City of Napier District Plan.

<sup>96</sup> Objective 62.4, City of Napier District Plan.

development away from areas known to be subject to natural hazards, controlling development in areas subject to natural hazards and monitoring the state of natural hazards.97

#### COMMENTARY

The objectives and policies within the City of Napier District Plan are not particularly directive with respect to natural hazard management from the perspective of implementing coastal protection structures or from managing land use activities. The objectives and policies therefore do necessarily support, nor prevent the implementation of the short-term adaptation responses within the Napier City District. By contrast however, the methods are prescriptive, prohibiting new buildings and permitting beach renourishment within the Coastal Hazard Zone at Westshore and Bay View. A disconnect therefore exists between the objectives, policies and methods. The District Plan review process provides an opportunity rectify this situation to ensure that avoidance requirements are matched with a prohibited or non-complying activity status, and enabling requirements matched with a permitted or controlled requirement.

The current inclusion of a coastal hazard zone over the Westshore and Bay View areas is an outlier in what is otherwise a consistent approach to coastal hazard management between Clifton and Tangoio and also involves different methodology for determining the extent of the hazard zones. Similarly, the coastal hazard mapping methodology differs to that undertaken in the wider region. These circumstances are a legacy of the relative timing of the Napier District Plan and preparation of the then proposed Regional Coastal Plan in the early 2000s. To avoid inconsistency in the mapping and management of coastal hazards in the future, it would be useful to align the coastal hazard management approach for Westshore and Bay View with the wider Strategy area.

Based on discussions with NCC Policy Planners, it is understood that the Westshore and Bay View coastal hazard zones (which are based on hazard data from 2000) are likely to be rolled over into the Proposed District Plan. Despite the adaptation pathways identified as part of Stage 3 of the Strategy being endorsed and adopted by HBRC, HDC and NCC, the NCC Officers were of the view that there is no overarching strategy document that incorporates these recommendations, nor has such a document being through a local government public consultation process. Accordingly, there was reluctance to provide the Strategy with any statutory weight. This view is consistent with that of the commissioner for the Clifton seawall application (within the Hastings District) who found that:

"Given that the strategy has not been through a public consultation process I can give little weight to it, but it does provide useful background regarding



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Policies 62.4.1 to 62.4.3, City of Napier District Plan.

coastal hazard management approaches being considered in the District and wider area.". 98

These views highlight the importance of ensuring that the outcomes sought in the Strategy are given statutory weight through reference in the RPS (and regional/district plans), or by undertaking a local government consultation process. Notwithstanding this, section 104(1)(c) of the RMA allows decision makers to have regard to "any other matter the consent authority considers relevant or reasonably necessary". Similarly, statutory and non-statutory strategies are often a key focus and driver or plan change applications. The Strategy is therefore not precluded from considered as part of future resource consent or plan change applications, nor does it preclude the Strategy from being considered in line with the NZCPS requirement to consider coastal hazard management over a 100-year timeframe. The weighting will depend on the specific nature of the case and for example, whether the Strategy can be linked to existing policies and methods within the respective plans.

#### 3.4 OTHER RELEVANT DOCUMENTS

A number of other relevant plans and strategies are of relevance to the implementation of Strategy, including:

- Iwi and Hapū Management Plans.
- Heretaunga Plains Urban Development Strategy.
- Coastal Hazards and Climate Change Guidance for Local Government.
- Hawke's Bay Conservation Strategy.

#### 3.4.1 lwi and Hapū Management Plans

Iwi and hapū management plans are tools for understanding the concerns that iwi and hapū may have in relation to resource management and council planning. They originate from iwi authorities and hapu groups and are not subject to the public submission and hearings process of statutory plans prepared under the RMA.

When agreed between the parties, iwi and hapu management plans should be incorporated into Regional and District Plans to ensure that due regard is given to their content when seeking sustainably manage natural and physical resources. There are

Resource Consent CL170304C, CL170305D, CL170306E, LU170307C, CL170308O, CL170309M, CD170310Land CL170311R.



currently five lwi and hapū management plans lodged with the Hawke's Bay Regional Council within the area of interest, including:<sup>99</sup>

- Kahungunu ki uta, Kahungunu ki tai, Marine and Freshwater Fisheries Plan;
- Tütaekurī Awa Management and Enhancement Plan;
- Ngāti Hori Freshwater Resources Management Plan Operation Pātiki;
- Mana Ake, Ngā Hapū o Heretaunga; and
- Ngäti Häwea ki Ruahäpia Hapü Management Plan (which is still in draft).

#### COMMENTARY

These plans express the values of importance to the lwi and Hapū in their area. Many values are held in common although there may be specific values associated with hapū and certain areas of significance. Generally, the values include:

- Rangatiratanga—More than a desire to be consulted, but a determination to participate in the management of the natural resources and environment within the rohe;
- Manaakitanga Continuation of traditional practices, including access to places and resources eg. mahinga kai, in order to look after the needs of the whānau, hapū and host responsibilities;
- Kaitiakitanga –an intergenerational responsibility towards the natural environment,
   akin to a guardianship role; and
- Mauri –The absolute need to maintain and enhance the essential quality and vitality of a being or entity; a physical object, individual, ecosystem or social group in which this essence is located.

#### 3.4.2 Heretaunga Plains Urban Development Strategy

The Heretaunga Plains Urban Development Strategy ("HPUDS") is the result of a collaborative approach by HDC, NCC and HBRC towards managing urban growth on the Plains from 2015 to 2045. The joint Strategy was first adopted in 2010, then a reviewed version re-adopted by the three councils in early 2017.

The Strategy is based on a preferred settlement pattern of 'compact design' for the Heretaunga Plains sub-region. The strategy reflects the community's preference to

Aramanu Ropiha, 2017. Assessment of Cultural Values Report, Coastal Hazards Strategy 2120 Clifton to Tangolo, Mai Te Matau a Māui ki Tangolo.



maintain the versatile land of the Heretaunga Plains for production purposes and to progressively move to a more consolidated urban form.

Defined growth areas are a key element of the settlement pattern blueprint identified in the HPUDS. These areas have been identified to ensure that growth and development is efficient and cost effective from an infrastructure and servicing point of view, and also to ensure that land use and infrastructure is co-ordinated, development well planned, and growth on the versatile land of the Heretaunga Plains avoided as much as possible.

Within the Strategy area, the communities of Bay View, Haumoana (south of East Road) and Te Awanga are identified as areas of potential future growth, albeit in a limited capacity within the constraints of the land. The HPUDS seeks to avoid future development within Coastal Hazard Areas.

HPUDS also identifies areas where greenfield development is deemed inappropriate. This includes Tangoio, Clive and Haumoana (north of East Road). However, the Strategy is not a rulebook. Rules about where development can and cannot occur as of right are found in other documents such as district plans noted earlier

#### COMMENTARY

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The HPUDS is reviewed every five years, although directives from national policy statements on urban development may further shorten that cycle. As part of the next review and subsequent reviews, and to ensure consistency with the recommendations set out above with respect to regional and district planning documents, it would be prudent to ensure that the identified growth areas align with the adaptation pathways and the outcomes sought for each priority unit.

#### 3.4.3 Coastal Hazards and Climate Change Guidance for Local Government

Late in December 2017, the Ministry for the Environment ("MfE") released "Coastal hazards and climate change: Guidance for local government" as an update to the 2008 version. 

The guidance:

provides information on the effects of climate change on coastal hazards, incorporating the latest science and relevant legislation, information from the Parliamentary Commissioner for the Environment's 2015 report on sea-level rise, and feedback from stakeholders;

Ministry for the Environment, 2017. Coastal hazards and c\u00e4mate change: Guidance for local government. Publication Reference ME 1341.



- recommends a new 'pathways' approach to adaptive planning that is dynamic and flexible. It is designed to be used when there is uncertainty about future physical conditions affecting the coastal environment;
- contains new sections on collaborative approaches to engaging with communities (which is central to the adaptive planning approach), and local government roles and responsibilities; and
- outlines a 10-step decision-making process that councils and communities can follow when planning for the effects of climate change on coastal hazards (Figure 2).

The MfE coastal guidance document was released late in the Strategy development process and following the conclusion of the Assessment Panels' work. Notwithstanding this, there was a high degree of alignment between the process adopted by the Strategy and the 10-step process suggested by the MfE guidance (Figure 2). This consistency was enabled through discussions with several of the MfE guidance authors who were also part of the Living at the Edge research team that supported the Strategy development process. This ensured that the Strategy's decision-making framework<sup>101</sup> reflected the key elements of the guidance approach. Table 3 provides an overview of this alignment.



Figure 2: 10 Step Decision Cycle 102



Mitchell Daysh Ltd, 2017. Clifton to Tangoio Coastal Hazards Strategy 2120 – Stage Two Report: Decision Making Framework.

<sup>102</sup> Source: Ministry for the Environment

Table 3: 2017 MfE Coastal Guidance alignment with the Strategy Development Process

Mi	Æ Guidance Step	Alignment with the Strategy
a.	Preparation and Context	Completed through Stage 1 and 2 of the Strategy with the establishment of the Joint Committee and Technical
b.	Hazard and sea level rise assessments	Advisory Group, the completion of the Hazard and Risk Assessment by Tonkin & Taylor and the development of the Decision-Making Framework. The methodologies employed in the hazard and risk assessment work by Tonkin & Taylor used a smaller number of sea-level rise scenarios than recommend in the Guidance but were otherwise consistent with the approach outlined.
c.	Values and Objectives	Completed by the Northern and Southern Cell  Assessment Panels with input from technical advisors
d.	Vulnerability and Risk	through Stage 3 of the Strategy, including the cultural values assessment, surveys undertaken in support of the
e.	Identify Options and Pathways	social impact assessment and the use of high level
f.	Option Evaluation	vulnerability assessments to assist with the determination of priorities and the development of pathways.
g.	Adaptive Planning Strategy (with triggers)	To be completed in Stage 4 of the Strategy, including the development of triggers to monitor.
h.	Implementation Plan	
i.	Monitor	To be undertaken through the Strategy monitoring and Review process, including through the monitoring of
j.	Review and Adjust	triggers and formal Strategy reviews at least every 10 years (or earlier in response to triggers being reached).

The Ministry for the Environment has recently co-authored a report<sup>103</sup> into the challenges with implementing the Clifton to Tangoio Coastal Hazard Strategy 2120. At a high level, the key issues have been identified as:

Issue 1 Core responsibilities for adaptation are ambiguous: Regional council and territorial authority responsibilities in relation to natural hazards and climate adaptation are derived from a range of statues and accordingly, councils cannot decide who has primary responsibility for addressing natural hazards and climate change. In the Hawke's Bay, this is playing out in discussions on which council/s should rate for the

Ministry for the Environment and Hawke's Bay Regional Council, 2020. Case Study: challenges with implementing the Clifton to Tangoio Coastal Hazards Strategy 2120.



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'public good' component of adaptive action, and there is currently no clear resolution to this issue although work continues in this space.

- Issue 2 The tools and mechanism to manage current and future hazard are limited or inefficient: The councils are concerned that the current legislative framework is not fit for purpose in terms of implementing a best practice Dynamic Adaptive Pathways Planning approach. In particular, the system is not set up to respond dynamically to changing information. Changes to, or better integration of, the RMA and the LGA may be necessary to address this along with the NZCPS because by promoting a pathway approach all mitigation options (including hard engineering) need to be recognised.
- Issue 3 There is a lack of agreed approach and principles for sharing costs of work:

  The total cost of the works to implement the coastal hazard strategy is likely to be very large, with high-level estimates from Tonkin and Taylor in 2016 putting the figure at \$130-285 million over the Strategy's 100-year planning horizon. In addition to the issue of which council should rate for the 'public benefit' part of the costs (and any associated debt), councils are facing difficulties drawing the line between what is paid for by general rates and what should be paid for by targeted rates for properties identified as 'beneficiaries' of works. Councils are concerned that a lack of central guidance on these questions means that whatever they decide to do will set a precedent for the rest of the country without having been informed by principles that would have national applicability.

#### COMMENTARY

Further work is currently being undertaken to identify how best to resolve some of the issues raised in the report, including the further development of policy options for Central Government Ministers to consider. As the key case study for this work, it will be imperative for HBRC, NCC and HDC to provide input into any formal or informal engagement processes and to openly share their experiences with the process in order to enact meaningful guidance and potentially national level policy changes to allow the strategy to assist with the long term implementation of the Strategy.

#### 3.4.4 Hawke's Bay Conservation Management Strategy

The Hawke's Bay Conservation Management Strategy 1994-2004 was made operative almost 16 years ago with a proposed new Strategy due for notification early 2020. 104 The management of the coastal environment has progressed significantly since that time and includes two generations of NZCPS, the first released in 1994 and the second in 2010. For



Note that Covid-19 may have impacted the notification date.

this reason, the Hawke's Bay Conservation Management Strategy 1994-2008 has not been considered as part of this review.

#### COMMENTARY

It is recommended that when the Proposed Hawke's Bay Conservation Management Strategy is released later this year, a detailed review is undertaken to understand the implications it may or may not have on the implementation of the Strategy and a submission filed accordingly. It should be noted that future decision makers will give consideration to the Conservation Management Strategy during both plan change and potential resource consent processes. It is also relevant for the Reserves Act, and the Councils should participate in the Conservation Management Strategy process to ensure that the outcomes sought in the Strategy are accommodated.

#### 4. CASE STUDIES

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#### 4.1 TASMAN DISTRICT – RUBY PLAN CHANGE 22

The coastal plain at Mapua and Ruby Bay is subject to coastal erosion and inundation. Multiple owners of properties that front the beach have erected (consented and unconsented) hard protection structures to limit the impact of storms and wave action. Tasman District Council (which is a unitary authority) has worked with the community on how to deal with the flooding issues since the mid-2000s with mixed results. <sup>105</sup>

In 2009, the Council commissioned modelling of freshwater flooding in the area and undertook an assessment of coastal hazards. This modelling work showed that a number of properties were highly likely to be subject to inundation as a result of sea level rise and increased storm frequency. The Council engaged with the community over the next 2 years to work through the issues and options, resulting in a draft Plan Change (PC22) in 2011.

The policy position in the Plan Change assumed that climate change and sea level rise will continue, and that existing hard protection structures will not be maintained. Controls are imposed on subdivision and development in areas subject to seawater and stormwater flooding. Housing in the defined coastal hazard area must be relocatable and further subdivision in these areas is restricted, although future expansion of the township was provided for on elevated sites away from the hazard areas.

Department of Conservation, 2017. Review of the effect of the NZCPS 2010 on RMA decision making, background information.



Four appeals were received, three of which were resolved by negotiation. One of these related to land owned by the Gallaghers, which sought to incorporate rules to allow 12 elevated building platforms on the property on which relocatable houses would be constructed. In defending the appeal, the Council undertook further detailed modelling work of the impact on the Gallagher property. Aside from the legal costs of defending the appeal, the additional technical work cost the Council over \$100k.

There was no dispute that coastal erosion is occurring in Ruby Bay. The Court found that whilst the Gallagher property would be unlikely to be affected by coastal erosion within a 100-year timeframe, it would be affected by stormwater flooding and seawater inundation as a result of overtopping. The Court found that the seawater inundation created a high level of hazard for occupants of or visitors to dwellings on the site.

The proposal was assessed against Objectives 5 and 6, and Policy 25 of the 2010 NZCPS. The Court found that Objective 5 was similarly directive as Policies 13 and 15 and sought to ensure that hazard risks are managed in defined ways. The Court concluded that 'ensure' is directive and means to secure, guarantee, make certain and protect. Policies 25(a) and (b) signal in very clear terms that increasing the risk of social, environmental and economic harm from coastal hazards is to be avoided. Given the modelled level of inundation, the Court considered that restricting the level of development on the site was not based solely on the precautionary approach but rather represented a very real possibility. As a result, the Court found that the appellant's proposal for 12 dwellings did not give effect to the NZCPS 2010 and was contrary to Objective 5 and Policy 25. The appeal was dismissed.

In respect of Policy 3 (Precautionary approach), while there are clear uncertainties, the controls contained in the Plan Change are not only justified on a precautionary basis. In considering the extent of uncertainty, the Court considered the factors identified in King Salmon to determine whether or not the precautionary approach required the activity to be prohibited until further information was available and concluded that in short, although the RMA is not a no risk statute, it was considered in this case that the nature of the risk to the Gallagher property was such that the Council's response was appropriate in the context of Objective 5 and Policy 25.

Whilst the policy development process had been started prior to the gazettal of the NZCPS 2010, its advent provided supporting policy direction for the Plan Change.

The Court found that the wording of the objectives and policies to address coastal hazards were equally as directive as Policies 11 and 13, which were considered by the Supreme Court in the King Salmon decision. Objective 5 and Policy 25 were found to be directive about avoiding increasing the risk of harm from hazards.

The case also demonstrated the difficulties in seeking to extrapolate the effect of future estimated sea level change undertaken at a broad scale onto individual properties where the science and modelling are imprecise, and experts may often present differing methodologies and opinions.

# 4.2 BAY OF PLENTY - MATATĂ REGIONAL NATURAL RESOURCE AND DISTRICT PLAN CHANGES

In June 2018 the Whakatāne District Council ("WDC") notified Plan Change 1 – Awatarariki Fanhead, Matatā ("PC1") to the operative Whakatāne District Plan and the Bay of Plenty Regional Council ("BOPRC") notified Plan Change 17 – Awatarariki Fanhead, Matatā ("PC17") to the operative Regional Natural Resource Plan. PC17 was a private plan change request made by WDC.

In May 2005, a storm triggered a debris flow of approximately 300,000m<sup>3</sup> in the small and steep Awatarariki Stream catchment at Matatā, causing significant damage to land buildings, road and rail infrastructure on the Awatarariki Fanhead. Fortunately, there were no fatalities during the event.

The return period of the storm was calculated as approximately a 200 to 500-year event. A meteorological report subsequently determined that, considering the effects of climate change, the return period for the same event would reduce to between 40 to 80 years by the return of the century. Debris flows can occur as a result of any storm capable of generating them and where there is enough material (or debris) available in catchment. This risk of further debris flows at Matatā was therefore considered to be significant and as certain as any natural phenomenon can be.

Following a number of investigations between 2005 and 2015, WDC reached the view that managed retreat was the only effective means of addressing the long-term risks at the Awatarariki Fanhead. Accordingly, WDP proposed PC1 to the Whakatane District Plan which introduced three new risk hazard areas over the fanhead (Figure 3). Within the high-risk areas, residentially zoned land was rezoned to Coastal Protection Zone and new residential activity prohibited. Within medium risk areas, the existing residential zoning remains but new residential activities or intensification of existing activities require resource consent, with natural hazard risk comprising a matter of discretion. The residential zoning remained in low risk areas, with natural hazards a consideration for the intensification of activities.



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Figure 3: High, medium and low risk areas at the Awatarariki Fanhead, Matatā

Because of existing use rights under section 10, the changes to the Whakatane District Plan are only effective at managing new development or redevelopment in the Awatarariki Fanhead. Owners of existing dwellings can continue to use these dwellings so long as the effects of that use are the same or similar in character, intensity and scale to the effects when the PC1 rules take effect.

To address the existing use right, WDC proposed PC17 of the BOPRC Regional Natural Resources Plan. PC17 inserted new rules into the plan that would extinguish existing residential use rights for residential activities within the high-risk area by making them a prohibited activity of 31 March 2031. This is possible because s10 of RMA does not apply to rules in regional plans. Instead, section 20A of the RMA is applicable to rules in regional plans regarding existing uses.

PC1 and P17 were coupled with a voluntary management retreat programme for residential activities within the high-risk area. A "voluntary managed retreat" fund package was created that enables property owners to sell their properties at an assessed 2019 baseline market value. The property owner can then relocate to a safer location.

In July 2019 Central Government (specifically the Minister of Local Government), confirmed up to \$5.019 million of financial assistance towards managed retreat at Matatā. That equated to a one third share of the \$15.058 million total cost of managed retreat, with the other two shares being provided equally by WDC and BOPRC. The size of the funding package was based on property valuations initiated by WDC in 2016 and updated in 2018 to account for likely property market movements out to July 2019. The funding package was a complementary initiative alongside the two proposed plan changes, but the funding package itself was not something that the independent hearings panel was expected to determine or issue findings on.

Both plan changes were approved by a panel of independent RMA hearing commissioners on 26 March 2020 in what was a New Zealand first for the extinguishing of existing use rights for hazard management purposes. At the time of preparing this report, the time for filing Environment Court appeals had yet to close.

While this case study presents an option that may become available to HBRC, NCC and HDC, the key difference in this case is the risk that the hazard poses to human health and safety, as well as property. The voluntary managed retreat package also featured quite heavily in the decision, with 32 of the 34 properties located within the highest hazard area entering the programme.

#### 5. SUMMARY OF RECOMMENDATIONS AND ACTIONS

In the preceding sections, a number of recommendations have been made to ensure that the regulatory and policy framework within the Hawke's Bay region and district assists with the consistent administration and implementation of the Strategy. These recommendations are also summarised in Tables 4 to 7 below.

Overall, a number of inconsistencies between national and regional planning and policy documents and regional and district planning and policy documents have been identified. It has also been identified that broadly, the regional and local planning and policy frameworks could be strengthened to better enable the outcomes sought by the Strategy.

At a high level, the key findings and recommendations include:

- Consider establishing a separate cultural workstream as part of the Stage 4
  implementation phase of the work to ensure that tangata whenua have an
  opportunity to be to exercise kaitiakitanga with respect to their cultural interests at
  each Priority Unit;
- Changes are required to the NZCPS to better recognise and provide for hard coastal protection structures as a mechanism for managing coastal hazard risk;
- Applying a top down approach, the RPS should provide policy recognition and support for the implementation of outcomes sought by the Strategy;



- Given the recommended changes to the RPS, amendments will be required to the Regional Coastal Environment Plan, the Hastings District Plan and City of Napier District Plan to ensure the objectives, policies and methods within these documents enable the outcomes sought by the Strategy. This is twofold - greater recognition of the implementation of short-term hazard adaptation responses (including benefits) and the avoidance of future land use intensification that will hinder long term delivery of the Strategy and increase moral hazard;
- Based on discussions with Council Officers and commentary provided in a recent resource consent decision, there is a view that the "Strategy" has no statutory weight as it has not been through a local government or RMA process. This is despite the Stage 3 recommendations being endorsed and adopted by all three Councils and accepted for advancement to Stage 4. Amendments to the RPS or taking the strategy through a local government consultation process would assist to resolve this ambiguity;
- While not identified earlier in this report, another matter that was identified by Council Officers is that there is no agreed set of coastal hazards, climate change and sea level rise parameters between the Councils. Ensuring that all three Councils are applying a consistent set of base parameters for future long-term planning would be beneficial and would address consistency issues. These should be regularly reviewed and made available to the public.
- 7. While also not identified earlier in this report, there appears to be some discrepancies between Council Officers regarding the provision of coastal hazard information available. Ensuring Council Officers are kept abreast of the coastal hazard workstreams and how to apply their findings to their relevant roles would be beneficial and would assist with developing greater alignment between the Councils.

The range of recommendations set out in this report are summarised in Tables 4 to 7 below. These have been grouped into three categories; national, regional/local, other actions. While HBRC, NCC and HDC's ability to enact change is greatest at regional/local level, national level guidance will be required to address the wider issues around who is ultimately responsible for adaptation, the tools and mechanism available to manage current and future changes and the costs of responding to climate change.

Table 4: Summary of recommended actions under other (non RMA) national statutes.

Statute	Recommendation
Building Act 2004	<ul> <li>Develop consistent processing requirements within coastal hazard areas and an agreed set of baseline data.</li> </ul>
Reserves Act 1977	Commence a process to work through the implications of the Reserves Act, the reserve classifications, reserve

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Statute	Recommendation
	management plans and what authorisations or other actions may be required.
Marine and Coastal Area (Takutai Moana) Act 2011	Continue engagement with the three lwi groups that form part of the Joint Committee as further policy, planning and consenting work progresses
	Seek advice from Council liaison advisors regarding the additional engagement required with parties outside of the Joint Committee, including in light of the MACA applications. Consider establishing a separate cultural workstream.
Hawke's Bay regional Planning Committee Act 2014	<ul> <li>Consider establishing a separate cultural workstream to ensure that t\u00e4ngata whenua have an opportunity to meaningfully exercise their kaltiaki over the Priority Units of interest.</li> </ul>
Heritage New Zealand Pouhere Taonga Act 2014	<ul> <li>Ensure that an archaeological authority is obtained for works within any Priority Units that are known or likely to contain historic artefacts.</li> </ul>
Other Statues	Identify what additional approvals may be required under other statutes not considered in this report, for example, the Wildlife Act 1953, Marine Mammals Protection Act 1978 and fisheries legislation. This will become more apparent has technical assessments are completed with respect to each Priority Unit and as the environmental context and effects associated with each adaptation response identified.

Table 5: Summary of recommended actions under National Policy Statements.

National Policy Statement	Recommendation
New Zealand Coastal Policy Statement	Undertake baseline studies to confirm the extent to which Policies 11, 13 and 15 may present challenges to the implementation of short-term adaptation responses.  Obtain archaeological authorities as necessary for sites which have or are likely to encounter historic artefacts.
	<ul> <li>Continue to advise Central Government and the Ministry of Conservation around the potential impact of the NZCPS on the delivery of short- and long-term management responses of coastal hazards and sea level rise.</li> </ul>
	<ul> <li>Promote potential opportunities for a new coastal hazard and adaptation policy statement.</li> </ul>
	Promote amendments to the NZCPS

National Policy Statement	Recommendation
Proposed National Policy of	<ul> <li>Work with Councils to confirm that future greenfield urban</li></ul>
Urban Development Capacity	development is not located within areas exposed to coastal
2016	hazard risks.

Table 6: Summary of recommended actions under Regional and District Planning and Policy Documents.

Regional / District Planning and Policy Document	Recommendation
Hawke's Bay Regional Policy Statement (part of the Regional Resource Management Plan)	Update the RPS to better give effect to the NZCPS;      Include new objectives and policies into the RPS which specifically give recognition and weight to the resource management-related elements of the final Strategy.
Hawke's Bay Regional Coastal Environment Plan	Undertake baseline studies to confirm the extent to which the Priority Units contain natural character, natural landscape, natural feature and indigenous biodiversity values;  Update the Regional Coastal Environment Plan to better give effect to the NZCPS;
	<ul> <li>Undertake mapping of key features identified in the NZCPS (such as area of significant indigenous biodiversity, natural character, natural landscapes and natural features) to provide greater certainty of outcome for plan users;</li> </ul>
	Update the policy framework to better recognise and provide for the outcomes sought by the Strategy. This includes:
	Establishing a more enabling and simplified consenting framework for the implementation of the short-term adaptation responses. Medium term should also be recognised and provided for (potentially via different consenting path) in the event that the medium-term triggers are reached, or planning for the implementation of medium term responses is required in the lifecycle of the Regional Coastal Environment Plan.
	Establishing a stronger and more directive policy framework for land use activities within coastal hazard areas. While managed retreat is a long-term Strategy outcome, a strong policy dissuasion would gradually result in a migration from the coast.
Hastings District Council	Establish greater alignment between the natural hazard and land use zone provisions by:

Regional / District Planning and Policy Document	Recommendation
	<ul> <li>Strengthening the land use zone provisions around the avoidance of land use activities and structures in natural hazard areas (insofar as it relates to subdivision – land use within these areas are addressed in the Regional Coastal Environment Plan);</li> </ul>
	<ul> <li>Providing of coastal hazard defence structures under a single set of rules rather than requiring multiple zone consents (typically as a non-complying activity).</li> </ul>
	<ul> <li>Update the Coastal environment strategy related provisions to reference the Clifton to Tangolo Coastal Hazard Strategy 2120.</li> </ul>
City of Napier District Plan	To create consistencies between Napier City and Hastings, remove the coastal hazard zone over Westshore and Bay View, thus leaving control of land use activities within those overlay areas to rules in the Regional Coastal Environment Plan;
	Strengthen the natural hazard provisions particularly with respect to subdivision (and land use within the coastal hazard areas is recommended within the Regional Coastal Environment Plan) and ensure alignment between the objectives, policies and methods.
Resource Consent / Decision Making Process	<ul> <li>As set out in the accompanying report (Consentability of Short Term Adaptation Responses), obtain a legal opinion with respect to the statutory weight to given to the Strategy as it currently stands.</li> </ul>

Table 7: Summary of recommended actions under other plans and strategies.

Document	Recommendation
Clifton to Tangoio Coastal Hazard Strategy 2120	Update to reflect the work undertaken as part of Stage 1 to 4 of the Strategy and publicly release through a local government process:  Identified agreed parameters for coastal hazard management, climate change and sea level rise.
Heretauranga Plains Urban Development Strategy	Ensure future updates to the Strategy maintain alignment with the Clifton to Tangoio Coastal Hazard Strategy 2120.
Coastal Hazards and Climate Change and Guidance for Local Government	Continue to feed into the review and development of guidance documents.

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Document	Recommendation
Hawke's Bay Conservation Management Strategy	<ul> <li>Review the proposed new Hawke's Bay Conservation Strategy when notified and prepare a submission (if necessary) to ensure the outcomes of the Strategy are enabled.</li> </ul>

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HAWKE'S BAY REGIONAL COUNCIL

## CONSENTABILITY OF SHORT-TERM ADAPTATION RESPONSES

Stage 4 Clifton to Tangoio Coastal Hazard Strategy 2120

July 2020

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## REPORT INFORMATION

Report Status	Final
Our Reference	MDL001088
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#### 1. INTRODUCTION

Clifton to Tangoio Coastal Hazard Strategy 2120 ("the Strategy") is entering into Stage 4 of a four-stage development process. Stage 4 will culminate in the identification of a clear implementation plan which will identify the actions required to implement the preferred adaptation pathways identified as part of Stage 3 of the Strategy development process.

This report discusses the consentability of the short-term adaptation responses identified as part of Stage 3 of the Strategy development process. The report forms part of the background investigations being undertaken by the Technical Advisory Group ("TAG") as part of wider programme of works associated with Stage 4 of the Strategy.

The report focuses on the short-term adaptation responses (i.e. those within a 0 to 20 year horizon) as these are the most likely to be implemented within the planning horizon of the relevant regional and district planning (which typically have a 10 year planning horizon). The regulatory environment will change beyond this timeframe, therefore evaluating medium to long term adaptation responses (from 20 to 50 year and 50 to 100 year horizons) as part of this report has limited utility.

#### 1.1 PURPOSE OF THE REPORT

The purpose of this report is to:

- Provide an overview of the Strategy and the adaptation pathways identified for each priority unit;
- Summarise the engineering concept designs developed in response to the identified short-term pathway for each priority unit;
- Identify the local planning context and the key environmental values ascribed to each priority unit;
- Provide a high-level overview of the planning framework and the key provisions that are likely to be determinative to the resource consent process; and,
- Identify the high-level resource consent requirements, the key consenting challenges based on the environmental values and the planning framework and identify methodologies for mitigating those challenges.

A separate but associated Policy and Regulatory Review report<sup>1</sup> identifies the key policy and regulatory issues that may hinder the implementation of the Hawke's Bay Coastal Hazard Strategy and identifies potential solutions for addressing those issues. This report is primarily focused on consentability under the Resource Management Act 1991 ("RMA")

Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Stage 4 Regulatory Review: Clifton to Tangolo Coastal Hazard Strategy 2120.



and identifies other statutes or matters to be considered that are often raised as part of the RMA consenting process.

#### STRUCTURE OF THE REPORT 1.2

The report is structured as follows:

Section 1: Sets out the purpose of the report.

Section 2: Summarises the context of the Clifton to Tangoio Coastal Hazard

Strategy 2120.

Section 3: Provides an overview of the priority units including a description of the

> adaptation response, the engineering concept design, the District and Regional Coastal Plan context and the environmental values ascribed

to the unit.

Section 4: Provides a high-level overview of the regulatory framework under

> which resource consents will be evaluated. For the purposes of this assessment, emphasis has been placed on those key provisions considered to be determinative to the resource consent outcome.

Section 5: Identifies the key consenting issues for each unit, or units with similar

consenting or environmental settings, and potential methodologies for

managing those risks.

Section 6: Investigates three case studies relating to the implementation of

coastal protection structures, two within the region and one from

outside the region.

Section 7: Concluding statements

#### THE CLIFTON TO TANGOIO COASTAL HAZARD STRATEGY 2. 2120

#### 2.1 OVERVIEW

The Strategy represents a co-ordinated approach to identifying and responding to coastal hazards and the influence of sea level rise over the next 100 years. It provides a platform for long-term planning and decision making.

The Strategy has been developed through a Joint Committee formed by representatives from the Hawke's Bay Regional Council ("HBRC"), the Napier City Council ("NCC"), and the Hastings District Council ("HDC") alongside representatives of the Maungaharuru-Tangitū Trust, Mana Ahuriri Trust and Heretaunga Tamatea Settlement Trust.

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The Strategy:

- Covers the coastal area between Clifton to Tangoio;
- Seeks to develop a planned response to coastal hazards out to the year 2120:
- Assesses and responds to the following coastal hazards:
  - Coastal erosion (storm cut, trends, effects of sea level rise)
  - Coastal inundation (storm surge, set-up, run-up, overtopping and sea level rise)
- Incorporates climate change as an overriding influence.<sup>2</sup>

The vision of the Strategy is:

That coastal communities, businesses and critical infrastructure from Tangoio to Clifton are resilient to the effects of coastal hazards.

#### 2.2 STRATEGY DEVELOPMENT PROCESS

The Strategy was initiated in 2014 with the establishment of a Technical Advisory Group ("TAG") formed by senior Council staff and advisors, and the Clifton to Tangoio Coastal Hazards Strategy Joint Committee ("Joint Committee"). The Strategy is being developed in four key stages, followed by an ongoing monitoring and review process (Figure 1).



Figure 1: Clifton to Tangoio Coastal Hazard Strategy – Process of Development

Stage 1 commenced in late 2014. Fundamental to Stage 1 was the identification of the extent of coastal erosion and coastal inundation hazards out to 2120, and the risks these present. This technical study was undertaken by Tonkin & Taylor with oversight from TAG and the Joint Committee. This work resulted in two reports being produced: Coastal Hazards Assessment<sup>3</sup> and Coastal Risk Assessment<sup>4</sup>. The coastal hazard assessment work was independently peer reviewed by Professor Paul Kench of Auckland University.

Note the Strategy did not include consideration of tsunami risks or ground water table rises.

Tonkin & Taylor, 2016. Clifton to Tangolo Coastal Hazards Strategy 2120 - Coastal Hazard Assessment.

Tonkin & Taylor, 2016. Hawke's Bay Coastal Strategy - Coastal Risk Assessment.

A mapping tool was also developed to show the newly mapped hazard extents. This information is provided through the Hawke's Bay Hazard Information Portal at: http://www.hbemergency.govt.nz/hazards/portal.

Stage 2 comprised development of a bespoke decision-making framework for the 100year Strategy by Mitchell Daysh Limited<sup>5</sup>, based on a community decision-making model
and utilising a range of decision making tools including Multi-Criteria Decision Analysis
process ("MCDA"), Dynamic Adaptive Planning Pathways ("DAPP") and Real Options
Analysis ("ROA"). During this stage, a funding model think-piece report was prepared by
Maven Consulting<sup>5</sup>. The preliminary funding model identified options for how planned
responses to coastal hazards risks identified in the Strategy might be paid for. The report
covers public / private benefits, the sharing of costs between Councils, and mechanisms
for securing funds, including the proposed establishment of a Coastal Contributory Fund.
Marven Consulting also prepared social impact assessments for each of the Priority Units.<sup>7</sup>
Stage 2 was completed at the end of 2016.

Stage 3 saw the implementation of the decision-making framework that was developed in Stage 2 to arrive at recommended responses to coastal hazards risks over the 100-year strategy period. The process was undertaken by two Community Assessment Panels, and their recommendations were presented to the Joint Committee in February 2018. The recommendations of the Community Assessment Panels were adopted by the Joint Committee on 20 February 2018 and were subsequently endorsed and adopted by the three member Councils in principle in order to progress to Stage 4.8

Stage 4 involves the development of an Implementation Plan for the coastal hazard responses recommended in Stage 3. Stage 4 will include the sequencing of works to be implemented in the short-term, and the identification of any supporting funding and policy actions, including potential regional and district plan changes. Stage 4 will also see the development of triggers (decision points) to determine when to transfer to the next (or different) coastal hazard response option for each priority unit of the Strategy area. The completion of Stage 4 should culminate in the partner Councils deciding whether to endorse and adopt the Strategy itself

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Mitchell Daysh, 2017. Clifton to Tangoio Coastal Hazards Strategy 2120 – Stage Two Report: Decision Making Framework.

Maven & Environmental Management Services Limited, 2016. Stage Two – Clifton to Tangolo Coastal Hazards Strategy 2120: Hazards Response Funding Model.

Marven Consulting, 2017. Coastal Hazards and Social Impact Assessment and Valuation for Ahuriri/Pandora, Westshore, Bay View and Whirinaki and a later 2017 assessment titled Cape Coast Area Coastal Hazards Social Impact Assessment and Valuation, prepared by Marven Consulting.

<sup>&</sup>lt;sup>8</sup> Hawke's Bay Regional Council 28 March 2018, Napier City Council 9 April 2018 and Hastings District Council 22 March and 28 June 2018.

# 2.3 OVERVIEW STAGE 3 ASSESSMENT PANEL RECOMMENDATIONS

Stage 3 of the Strategy culminated in the two Community Assessment Panels making recommendations to the Joint Committee regarding their preferred adaption pathways for each of the Strategy's priority units. The adaptation pathways identified for each of the nine priority units within the Strategy area are shown in **Table 1** below.

Table 1: Overview of the Assessment Panel adaptation pathway recommendations as part of the Strategy.

Unit	Short-term (0-20 years)		Medium Term (20-50 years)		Long Term (50-100 years)
Northern Panel			1111		
Ahuriri	Status quo	+	Sea wall	+	Sea wall
Pandora	Inundation Protection	+	Inundation Protection	+	Inundation Protection
Westshore	Renourishment	+	Renourishment + Control Structures	•	Renourishment - Control Structures
Bay View	Status Quo / Renourishment	•	Renourishment + Control Structures	+	Renourishment Control Structures
Whirinaki	Status Quo / Renourishment	•	Renourishment + Control Structures	•	Sea wall
Southern Panel					
Clifton	Sea wall	+	Sea wall	+	Managed Retrea
Te Awanga	Renourishment + Groynes	+	Renourishment ÷ Groynes	+	Renourishment Graynes
Haumoana	Renourishment + Groynes	+	Renourishment + Groynes	+	Managed Retree
Clive / East Clive	Status Quo	+	Renourishment + Groynes	+	Retreat the Line Managed Retrea

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#### 3. **OVERVIEW OF PRIORITY UNITS**

On behalf of the TAG, staff of HBRC's Engineering Section have undertaken the modelling, concept design and costing of the preferred short-term pathways as part of Stage 4 of the Strategy.9

In the following sections, a high-level overview of the preliminary engineering and concept designs developed for each priority unit is provided, followed by a high-level evaluation of the relevant regional and district plan zoning and the key values ascribed to each site. These values have been identified based on mapping with the relevant regional and district plans, information sourced from nearby resource consent applications, social and cultural impact assessments undertaken as part of the Strategy development process and general knowledge of the area.

For a detailed account of the engineering and concept designs, including costs, refer to the following to source reports:

- Beya, J. and Asmat, C. (2019) Design of Groynes and Nourishment Clifton to Tangoio 2120 Strategy - Stage 4, Wave, Shoreline Evolution and Gravel Barrier Response Modelling. Groynes Design and Cost Estimates. HBRC Draft report.
- Beya, J. and Asmat, C. (2020) Short-term concept design and costing for Pandora Unit, Clifton to Tangoio 2120 Coastal Strategy - Design Work Stream. HBRC Draft report.

As retention of status quo is the short-term pathway for both Ahuriri and Clive, no further analysis of these sites has been undertaken as part of this consentability report.

#### WHIRINAKI 3.1

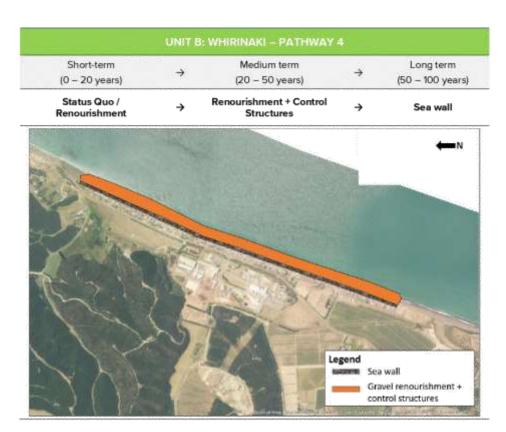
#### 3.1.1 Whirinaki Short-term Adaptation Response

The Northern Assessment Panel identified the following preferred short, medium- and long-term adaptation responses for the Whirinaki priority unit as part of the Stage 3 Evaluation Process of the Strategy:10

Section 8.6, Report of the Northern and Southern Cell Assessment Panels (2018).



Note that these concepts and costings have not been considered or endorsed by the Community Panels, the Joint Committee or any of the associated member agencies.



Further modelling and engineering concept design for this priority unit has identified that in the short-term, renourishment may not be required. If renourishment is required (as per one of the design options being considered) it would likely be in the order of 3,000 m<sup>3</sup>/y.

# 3.1.2 Regional and District Planning Provisions

The Whirinaki Unit is located within the jurisdiction of the HBRC and HDC.

# Whirinaki Zoning

The coastal interface of the Whirinaki priority unit is located within the Open Space Zone of the Hastings District Plan. To the west of the Open Space Zone is the residential area of Whirinaki which is primarily zoned for Coastal Settlement Purposes.

An overview of the key zones that apply to this area under the Hastings District Plan is provided in **Figure 2**.



Figure 2: Zoning of the Whirinaki Priority Unit and surrounds under the Hastings District Plan.

Under the Regional Coastal Environment Plan, Whirinaki is located within the Coastal Environment. The landward area is also located within the Coastal Hazard 1 and 2 Zones. The foreshore area is subject to a Class CR (HB) Water overlay.

An overview of the key zones that apply to this area under the Regional Coastal Environment Plan in **Figure 3**. The HBRC Hazards Portal also contains update to date mapping on coastal hazards within this area.<sup>11</sup>



Figure 3: Zoning of the Whirinaki Priority Unit and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

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https://bbmaps.hbrc.govt.nz/hazards/

### Key Environmental Values

The key environmental values at and in the vicinity of the Whirinaki priority unit are set out below.

- The relevant District and Regional Plans do not identify any areas of significant ecological, landscape or character value at, or surrounding, the Whirinaki priority unit.
- As identified on the HBRC Pataka mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Te Whanganui-a-Orotū. The Treaty Partner Land Area associated with Mana Ahuriri and Maungaharuru-Tangitū Trust, respectively, also overlays the landward area and the Kahungunu ki Te Matau a Māui Rohe Moana over the coastal areas.
- Offshore reefs, including those areas north of Whirinaki, are of cultural significance in this area. Old urupă (still in use) is located at the end of North Shore Road. 12
- The area is a semi-rural environment and is known for its mountain bike park, kayaking and pleasant beach environment. 13
- > The area does not have a long settlement history; however, it is located close to the outstanding archaeological sites associated with a former whaling station.
- The area is part of the Whirinaki Recreation Reserve.

### Likely Resource Consents Required

The likely resource consents required to implement the short-term adaptation response at Whirinaki is set out in Table 2.

The offshore (below mean high water spring) renourishment activities will likely require resource consent as a restricted discretionary activity under the Regional Coastal Environment Plan. Based on the information available, no resource consents are required under the Hastings District Plan as the renourishment activities will be located offshore (beyond HDC's jurisdiction).



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As identified as part of the Stage 3 of the multi-criteria decision-making analysis process for the Northern Assessment Panel. Criteria specifically related to the relationships of Maori and their culture and traditions with their ancestral lands, water, sites waahi tapu and other taonga.

Marven Consulting, 2017. Coastal Hazards and Social Impact Assessment and Valuation for Ahuriri/Pandora, Westshore, Bay View and Whirinaki.

Table 2: Summary of likely consent requirements at Whirinaki. Blue shading identifies consents required from the HBRC.

Consent Requirement	Activity Status
Renourishment resulting in deposition of material on the foreshore or seabed in quantities less than 50,000m <sup>3</sup>	Restricted Discretionary <sup>14</sup>

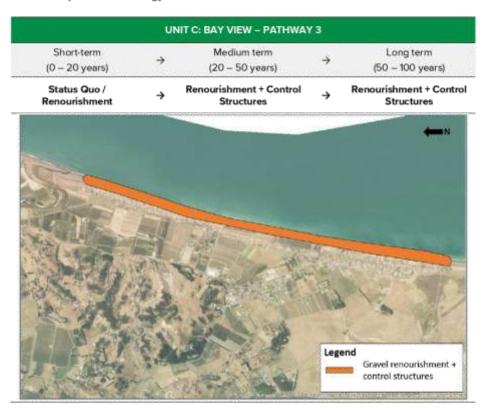
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Rule 151, Hawke's Bay Regional Coastal Environment Plan.

# 3.2 BAY VIEW

# 3.2.1 Bayview Short-term Adaptation Response

The Northern Assessment Panel identified the following preferred short, medium and longterm adaptation responses for the Bayview priority unit as part of the Stage 3 Evaluation Process as part of the Strategy: 15



Further modelling and engineering concept design for this priority unit has identified that in the short-term, gravel renourishment will be required along the coastline of the priority unit. Modelling and subsequent engineering concept designs have identified that renourishment of this area will require between 7,500 to 20,500 m<sup>3</sup>/y.

## 3.2.2 Regional and District Planning Provisions

The Bayview Unit is located within the jurisdiction of the HBRC and NCC.

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Section 8.5, Report of the Northern and Southern Cell Assessment Panels (2018).

### Zoning

The residential community of Bay View is located within the Rural Settlement Zone of the City of Napier District Plan. The coastal interface is zoned Foreshore Reserve, with much of the area also being overlaid by the Coastal Hazard Zone.

The District Plan also identifies two features of significance in this area, an area of significance to Maori<sup>16</sup> associated with Keteketerau (the opening of the estuary) and an archaeological site<sup>17</sup> associated with an arrowhead design pill box.

An overview of the key zones that apply to this area under the Napier District Plan is provided in **Figure 4.** 

Area of Significance to Maori, Keteketerau – Opening of estuary, Reference M10.

<sup>&</sup>lt;sup>17</sup> Archaeological Site, Pill Box, Reference V21/261.



Zoning of the Bay View Priority Unit and surrounds under the Napier District Figure 4:

Bayview is also located within the Coastal Environment, as mapped in the Regional Coastal Environment Plan. There are currently no coastal hazard zones identified in the Regional Coastal Environment Plan for Westshore to Bay View coastline. The foreshore area is also subject to a Class CR (HB) Water overlay (**Figure 5**). The HBRC Hazards Portal also contains update to date mapping on coastal hazards within this area.  $^{18}$ 



Figure 5: Zoning of the Bay View Priority Unit and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

## Key Environmental Values

The key environmental values at and in the vicinity of the Bay View priority unit are set out below.

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https://hbmaps.hbrc.govtziz/hazards/

- The relevant District and Regional Plans do not identify any areas of significant ecological, landscape or character value at, or surrounding, the Bay View priority unit.<sup>19</sup>
- As identified on the HBRC Pātaka mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Te Whanganui-a-Orotū. The Treaty Partner Land Area associated with Mana Ahuriri and Maungaharuru-Tangitū Trust also overlays the landward area and the Kahungunu ki Te Matau a Māui Rohe Moana over the coastal areas.
- Offshore reefs, including those areas north of Whirinaki, are of cultural significance in this area.<sup>20</sup>
- Bay View is valued for its vibrant rural lifestyle and strong connections through second and third generation residents. The area is also value for its coastal cultural heritage.<sup>21</sup>
- The District Plan identifies two features of significance in this area, an area of significance to Maori<sup>22</sup> associated with Keteketerau (the opening of the estuary) and an archaeological site<sup>23</sup> associated with an arrowhead design pill box.

### Likely Resource Consents Required

The likely resource consents required to implement the short-term adaptation response at Bay View is set out in **Table 3**.

The offshore (below mean high water spring) renourishment activities will likely require resource consent as a restricted discretionary activity under the Regional Coastal Environment Plan.

Based on the information available, no resource consents are required under the City of Napier District Plan as the removal and/or deposition of sediment and/or beach single above mean high water springs is a permitted activity provided the maximum deposition

Note the City of Napier District Plan is currently being reviewed, with the proposed plan due for notification mid-2021. Due to timing, this report does not take the proposed plan into account as it does not currently have any legal status. The consentability of the three Priority Units within the Napier City District may therefore need to be reviewed into the future.

As identified as part of the Stage 3 of the multi-criteria decision-making analysis process for the Northern Assessment Panel. Criteria specifically related to the relationships of Maori and their culture and traditions with their ancestral lands, water, sites weahli tapu and other taonga.

<sup>&</sup>lt;sup>21</sup> Marven Consulting, 2017. Coastal Hazards and Social Impact Assessment and Valuation for Ahuriri/Pandora, Westshore, Bay View and Whirinaki.

<sup>&</sup>lt;sup>22</sup> Area of Significance to Maori, Keteketerau – Opening of estuary, Reference M10.

<sup>&</sup>lt;sup>23</sup> Archaeological Site, Pill Box, Reference V21/261.

rate does not 50,000m³/year and the activity must relate to renourishment within the Foreshore Reserve Zone.<sup>24</sup>

Table 3: Summary of likely consent requirements at Bay View. Blue shading identifies consents required from the HBRC.

Consent Requirement	Activity Status
Renourishment resulting in deposition of material on the	Restricted Discretionary <sup>25</sup>
foreshore or seabed in quantities less than 50,000m3	



<sup>&</sup>lt;sup>24</sup> Rule 44.6, City of Napier District Plan.

<sup>&</sup>lt;sup>25</sup> Rule 151, Hawke's Bay Regional Coastal Environment Plan.

### 3.3 WESTSHORE

# 3.3.1 Westshore Short-term Adaptation Response

Gravel renourishment + control structures

The Northern Assessment Panel identified the following preferred short, medium- and long-term adaptation responses for the Westshore Priority Unit after completing the Stage 3 Evaluation Process as part of the Strategy:<sup>26</sup>



Further modelling and engineering concept design for this priority unit has identified that in the short-term, renourishment is likely to comprise of a combination of both sand and gravel renourishment as well was the extension of the existing gravel barrier at Westshore (Beya and Asmat, 2019).

For modelling and engineering concept design purposes, a 45m design distance was assumed for the gravel barrier, ensuring approximately 5m of clearance is available between the property boundary and the proposed barrier (Figure 6).



Section 8.4, Mitchell Daysh Limited, 2018. Report of the Northern and Southern Cell Assessment Panels.

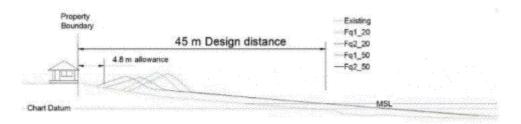


Figure 6: Design gravel barrier used to inform modelling and engineering design (Beya and Asmat, 2019).

Gravel barriers are only required in front of existing and future infrastructure that require protection or in location where the existing barrier height is lower than the proposed new gravel barrier crest height. Modelling identified that the portion of this Priority Unit where a gravel barrier is required in the short-term is at the northern end of Westshore. This is where houses and the road are close to the shore and where the existing barrier height is less than the proposed new barrier (Figure 7).



Figure 7: Approximate areas of the Westshore priority unit were an extension to the existing gravel barriers is required (Beya and Asmat, 2019).

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Gravel and sand nourishment already take place at Westshore under two existing coastal permits. HBRC currently holds a permit<sup>27</sup> to undertake approximately 30,000m<sup>3</sup>/y of renourishment in the Westshore area per year. The Port of Napier holds a permit28 to dispose of dredged material off the coast of Westshore. Collectively these two consents enable the ability for significant volumes of gravel and sand renourishment to occur in the area, but those consents do not oblige the consent holders to compulsorily deposit material for renourishment purposes.

HBRC is currently considering two potential engineering concept designs for Westshore. Based on the larger of the two options the following renourishment activities will be required to implement the short-term adaptation response for Westshore:29 Note that these figures assume that HBRC and the Port of Napier will utilise the maximum renourishment potential of their consents.

### Initial Works30

- Construction of a 1.95km long gravel barrier along northern Westshore (Figure 7). The gravel barrier will have a cross sectional area of approximately 5.4m2 and will require approximately 10,500m3 of gravel to construct.
- Approximately 850,000m<sup>3</sup> of sand renourishment. This is to be undertaken as part of an initial capital works programme (over one to two years) and is in addition to the 1,000,000m<sup>3</sup> of sand renourishment that could be undertaken by the Port of Napier.

## Ongoing maintenance works (to maintain the sandy beach)31

- Approximately 100,000m3/y of sand renourishment. This is in addition to the existing 33,500m3/y currently being deposited per year;
- Approximately 3,500m³/y of gravel renourishment. This is in addition to the existing gravel nourishment of 15,300m<sup>3</sup>/y being undertaken by HBRC.
- Approximately 528m3/y of gravel associated with ongoing maintenance of the Westshore Gravel Barrier.

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Hawke's Bay Regional Council Consent Number LU160261D and LU160262E. Both consents lapse on 34 May

Hawke's Bay Regional Council Consent Number CD180012W.

<sup>29</sup> Note that a number of modelling scenarios were developed for Westshore. Modelling Alternative B has been evaluated as it requires most significant sand and gravel volumes and accordingly, carries the greatest consenting risk. Note that based on discussions with Hawke's Bay Regional Council (pers comm J Beya). Alterative B or C are the most likely design scenario being considered at this time

<sup>30</sup> As part of Alternative B discussed in the Beya and Asmat, 2019. Design of Groynes and Nourishment – Clifton to Tangoio 2120 Strategy - Stage 4 Wave, Shoreline Evolution and Gravel Barrier Response Modelling. Groynes Design and Cost estimates. Note all volumes referred to in this section are derived from this report.

As part of Alternative B discussed in the Beya and Asmat, 2019. Design of Groynes and Nourishment - Clifton to Tangoio 2120 Strategy - Stage 4 Wave, Shoreline Evolution and Gravel Barrier Response Modelling. Groynes Design and Cost estimates. Note all volumes referred to in this section are derived from this report.

Approximately 686 m³/y of gravel per year to mitigate projected sea level rise.

The second engineering concept design<sup>32</sup> being considered by HBRC is a reduced version of the above and excludes the 850,000m<sup>3</sup> of initial sand nourishment and the associated annual maintenance renourishment of 100,000m<sup>3</sup>/y.

# 3.3.2 Regional and District Planning Provisions

The Westshore priority unit is located within the jurisdiction of the HBRC and NCC.

#### Westshore Zoning

The areas of Westshore required to accommodate the proposed gravel barriers and associated beach renourishment are located within the Foreshore Reserve Zone of the City of Napier District Plan. This zone occupies much of the waterfront and is also overlaid by the Coastal Hazard Zone. The width of the Foreshore Reserve Zone narrows along northern Westshore and is immediately adjoined by the Northern Residential Zone.

The City of Napier District Plan also identifies two features of significance in this area - an archaeological site<sup>33</sup> associated with a military pill box and an archaeological site<sup>34</sup> associated with the remains of the former North British and Hawke's Bay Freezing Company (established in 1888).

As part of Alternative C discussed in the Beya and Asmat, 2019. Design of Groynes and Nourishment — Clifton to Tangoio 2120 Strategy — Stage 4 Wave, Shoreline Evolution and Gravel Barrier Response Modelling. Groynes Design and Cost estimates. Note all volumes referred to in this section are derived from this report.

Archaeological Site, Pill Box, Reference V21/259.

<sup>34</sup> Archaeological Site, Freezing Works, Reference V21/260.

An overview of the key zones that apply to this area under the City of Napier District Plan is provided in **Figure 8**.

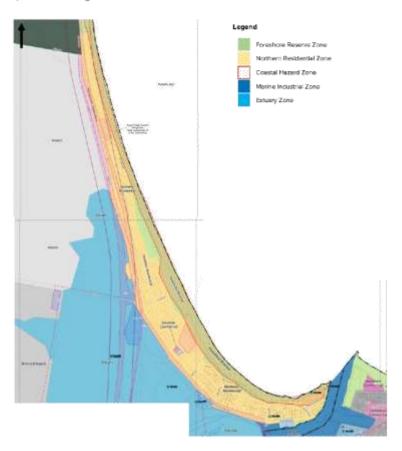


Figure 8: Zoning of the Westshore Priority Unit and surrounds under the Napier District Plan.

Under the Hawke's Bay Regional Coastal Environment Plan ("Regional Coastal Environment Plan"), the proposed gravel barriers and renourishment areas are all located within the Coastal Environment. The foreshore area is also subject to the "Westshore Renourishment Area" overlay, with the large "Dredge Disposal Area" overlay located immediately offshore. The seaward area of Westshore is subject to a CR(HB) Water classification. There are currently no coastal hazard zones identified in the Regional Coastal Environment Plan for the Westshore to Bay View coastline.

An overview of the key zones that apply to this site Regional Coastal Environment Plan is provided in **Figure 9**. The HBRC Hazards Portal also contains update to date mapping on coastal hazards within this area.<sup>35</sup>



Figure 9: Zoning of the Westshore Priority Unit and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

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<sup>35</sup> https://hbmaps.hbrc.govt.nz/hazards/

#### Key Environmental Values at Westshore

The key environmental values at and in the vicinity of the Westshore priority unit are set out below.

- The relevant District and Regional Plans do not currently identify any areas of significant ecological, landscape or character value at, or surrounding, the Westshore priority unit.<sup>36</sup>
- As identified on the HBRC P\u00e4taka mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Te Whanganui-a-Orot\u00fc. The Treaty Partner Land Area associated with Mana Ahuriri also overlays the landward area and the Kahungunu ki Te Matau a M\u00e4ui Rohe Moana over the coastal area.
- Offshore reefs, including Te Pania are of cultural significance in this area.<sup>37</sup>
- The southern end of Westshore includes two features of historical significance an archaeological site<sup>38</sup> associated with a military pill box and an archaeological site<sup>39</sup> associated with the remains of the former North British and Hawke's Bay Freezing Company (established in 1888).
- The area is valued for its recreational amenities, including green verges, cycleway and walkway and local surf club. The Surf Club has approximately 350 members.<sup>40</sup>
- Historically post the 1931 Hawke's Bay earthquake, the area comprised of a sandy beach. Many residents would like to see the sandy beach restored and the amenity value maintained by rebuilding the beach and nearshore area with sand which has eroded over the past 20-30 years.<sup>41</sup>
- The Rangatira Reef (or City Reef) is located at the southern end of Westshore, adjacent to Whakarire Avenue. The reef creates a good quality surf break in the area in certain wave conditions.
- Recreational diving and fishing are important in the Napier Coastal Environment, particularly around the offshore Pania Reef.

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Note the City of Napier District Plan is currently being reviewed, with the proposed plan due for notification mid-2021. Due to timing, this report does not take the proposed plan into account as it does not currently have any legal status. The consentability of the three Priority Units within the Napier City District may therefore need to be reviewed into the future.

<sup>37</sup> As identified as part of the Stage 3 of the multi-criteria decision-making analysis process for the Northern Assessment Panel. Criteria specifically related to the relationships of Maori and their culture and traditions with their ancestral lands, water, sites weahli tapu and other taonga.

<sup>&</sup>lt;sup>38</sup> Archaeological Site, Pill Box, Reference V21/259.

<sup>&</sup>lt;sup>39</sup> Archaeological Site, Freezing Works, Reference V21/260.

<sup>&</sup>lt;sup>40</sup> Marven Consulting, 2017. Coastal Hazards and Social Impact Assessment and Valuation for Ahurini/Pandora, Westshore, Bay View and Whirinaki.

<sup>&</sup>lt;sup>41</sup> Marven Consulting, 2017. Coastal Hazards and Social Impact Assessment and Valuation for Ahuriri/Pandora, Westshore, Bay View and Whirinaki.

- The site is located within the Westshore Beach Reserve. This is a reserve under the Reserves Act 1977 for Recreation Reserve purposes.
- A resource consent has recently been approved for the construction of a rock revetment and wave spending beach at the southern end of Westshore immediately seaward of the residential dwellings fronting the ocean along Whakarire Avenue (refer to case study in section 6.1). NCC is currently consulting on its construction as part of the Annual Plan.

### Likely Resource Consents Required

The likely resource consents required to implement the short-term adaptation responses at Westshore are set out in Table 4. The resource consent currently held by HBRC for up to 30,000m3 of renourishment will not cover the full gambit of short-term adaptation responses via renourishment works at Westshore, and certainly not beyond 2027 when the consents expire.

The proposed extension to the gravel barrier at Westshore will likely require resource consent as a controlled activity under the Regional Coastal Environment Plan. Controlled activities must be granted. The offshore (below mean high water spring) renourishment activities will likely require resource consent as a full discretionary activity.

Based on the information available, no resource consents are required under the City of Napier District Plan as the removal and/or deposition of sediment and/or beach single above mean high water springs is a permitted activity provided the maximum deposition rate does not 50,000m3/year and the activity must relate to renourishment within the Foreshore Reserve Zone.42

Table 4: Summary of likely consent requirements at Westshore. Blue shading identifies consents required from the HBRC.

Consent Requirement	Activity Status
Renourishment resulting in deposition of material on the foreshore or seabed in quantities greater than 50,000m <sup>3</sup>	Discretionary <sup>tt</sup>
Beach renourishment <sup>44</sup> within Westshore Renourishment Area.	Controlled <sup>45</sup>

Rule 44.6. City of Napier District Plan.

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Rule 151, Hawke's Bay Regional Coastal Environment Plan.

Beach nourishment means the placement of sediment by artificial means on the foreshore, seabed, or active beach area for the purposes of mitigating a coastal hazard or for maintaining shoreline location. Usually the imported material is of similar physical characteristics to the material already present. Beach nourishment is most commonly carried out as a coastal protection work. It is not a reclamation because its primary purpose s not to create new land; and does not include the dumping of waste or other material.

Rule 103, Hawke's Bay Regional Coastal Environment Plan.

## 3.4 PANDORA

# 3.4.1 Pandora Short-term Adaptation Response

The Northern Assessment Panel identified the following preferred short, medium- and long-term adaptation responses for the Pandora priority unit as part of the Stage 3 Evaluation Process of the Strategy:<sup>46</sup>

Inundation Protection	<b>→</b>	Inundation Protection	<b>→</b>	Inundation Protection
Short-term (0 – 20 years)	÷	Medium term (20 – 50 years)	÷	Long term (50 – 100 years)
	UN	IT E2: PANDORA - PATHWA	EY3	



Further modelling and engineering concept design for this priority unit has identified that in the short-term, a range of inundation protection measures will be required reflective of the broad ranging environmental settings along the proposed feature. This includes stopbanks, revetments and sheet pile walls. The composition of the inundation protection features is shown in **Figure 10**.

Section 8.3, Mitchell Daysh Limited, 2018. Report of the Northern and Southern Cell Assessment Panels.



Figure 10: Layout design for the proposed flood defences in the Pandora Priority Unit (Beya and Asmat, 2020).

Stop banks are proposed to be used in three locations, including:

- A 1070m stop bank (Stop bank 1) located between the western railway and Tyne Street Drain.
- > A 190m stop bank (Stop bank 2) located across the Humber Street Reserve; and,
- A 180m long stop bank (Stop bank 3) located directly south of the Napier Sailing Club.

A typical stop bank cross section is shown in **Figure 11**. Provided the foundations are developed with enough bearing capacity, the future crest height of the stop banks can be incrementally increased in response to rising sea levels.

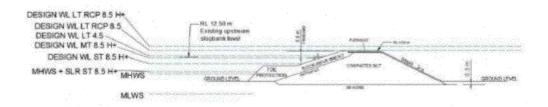


Figure 11: Typical stop bank cross section (Beya and Asmat 2020).

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A 204m sheet pile wall with an approximate design crest height of 12.9m is proposed adjacent to the Tyne Street Drain (**Figure 12**). The sheet pile was identified for this area due to the scarcity of space along this frontage.

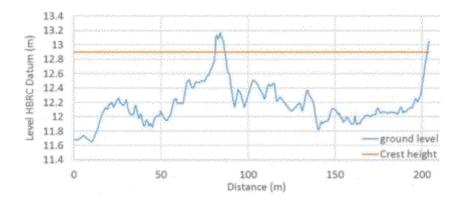


Figure 12: Sheet pile ground levels crest height (Beya and Asmat, 2020).

The remainder of the inundation protection will comprise of revetments backed with a cantilevered reinforced concrete wall (Figure 13). The revetments include:

- A 110m long revetment along Pandora Pond (in the vicinity of the existing car-tyre revetment); and,
- > A 130m long revetment in place of the existing rock revetment along West Quay.

The proposed revetments would increase the crest height of existing revetments by 1.45m and 0.9m respectively.

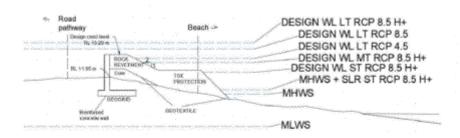


Figure 13: Typical design cross section of cantilevered reinforced concrete wall and revetment (Beya and Asmat, 2020).

Works will be required to raise the height of Pandora Road to ensure it does not create a low point in the inundation protection network.

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As an alternative option to the inundation protection measures, consideration has been given to the installation of a storm surge barrier. The inflatable tube barrier would be installed at the entrance to the Ahuriri Harbour, extending approximately 100m in width. The approximate location of the proposed storm surge barrier is shown in **Figure 14**. This was not an option considered as part of the Stage 3 Assessment Panel process but has been identified in the concept engineering and design report.



Figure 14: Approximate location and length of storm surge barrier (Beya and Asmat, 2020).

# 3.4.2 Regional and District Planning Provisions

The Pandora Unit is located within the jurisdiction of the HBRC and NCC.

## Pandora Zoning

The Pandora priority unit traverses a number of land use zones within the City of Napier District Plan (**Figure 15**). A large area of Mixed-Use zoning is located between West Quay and the Tyne Street Drain (perpendicular to Humber Street). The drain itself is zoned Reserve, with the area north and west of the drain (i.e. the Ahuriri Estuary) zoned Estuary. The land behind the Reserve zoned drains is zoned Main Industrial.

The southern abutments of the designated railway bridge, near where the proposed seawall would attach to land, is zoned for Rural Conservation purposes.

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The area in front of West Quay and up to and including the Pandora Bridge is zoned Boat Harbour. This includes the Sailing Club.

An overview of the key zones that apply to this area under the City of Napier District Plan is provided in **Figure 15**.



Figure 15: Zoning of the Pandora Unit and surrounds under the City of Napier District
Plan.

Under the Regional Coastal Environment Plan, the proposed inundation protection measures are all located within the Coastal Environment – some more specifically in parts of the coastal marine area.

The area around the Pandora Marina is located within the Port Management Zone (between West Quay and Pandora Road). To the west of Pandora Road, parts of the proposed inundation protection measures are located within Significant Conservation Area 12 and Class CR (HB) Water.

An overview of the key zones that apply to this area under the Regional Coastal Environment Plan is provided in **Figure 16**. The HBRC Hazards Portal also contains update to date mapping on coastal hazards within this area. <sup>47</sup>

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<sup>47</sup> https://hbmaps.hbrc.govt.nz/hazards/



Figure 16: Zoning of the Pandora Unit and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

## Key Environmental Values

The key environmental values at and in the vicinity of the Pandora priority unit are set out below.

- As identified on the HBRC Pātaka mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Te Whanganui-a-Orotū. The Treaty Partner Land Area associated with Mana Ahuriri also overlays the landward area and the Kahungunu ki Te Matau a Māui Rohe Moana over the coastal areas.
- Waka access to lagoon and the sea and fish passage is of particular cultural importance in this area.<sup>48</sup>
- The Ahuriri Estuary supports over 70 bird species, some critically endangered native species and some migratory birds from the northern hemisphere. Of note are the critically endangered Bittern and the flounder and cockle species. The lower estuary a known yellow belly flounder species nursery.<sup>49</sup>
- Pandora Pond is used as an entry point for waka and is also used by recreational swimmers. Several walkways and trails can also be found around the estuary and former lagoon. 50

As identified as part of the Stage 3 of the multi-criteria decision-making analysis process for the Northern Assessment Panel. Criteria specifically related to the relationships of Maori and their culture and traditions with their ancestral lands, water, sites waahi tapu and other taonga.

Ahuriri Estuary and Coastal Edge Master Plan, prepared by Napier City Council, Isthmus and Mitchell Daysh, July 2018.

So Coastal Hazards and Social Impact Assessment and Valuation for Ahuriri/Pandora, Westshore, Bay View and Whirinaki, prepared by Marven Consulting, July 2017.

- The Ahuriri Estuary and Coastal Edge Master Plan seeks to increase the recreational values further through the development of additional tracks and interpretation signage. The Master Plan also proposes to establish Humber Reserve (located north of Humber Street) as a "Premier recreation reserve". 51
- The Humber Reserve is located north of Humber Road. This is a reserve under the Reserves Act 1977 for Local Purpose and Recreation reserve.
- The estuary forms an important part of the stormwater network and receives approximately 70% of the city's untreated stormwater. 52

## Likely Resource Consents Required

The likely resource consents required to implement the short-term adaptation response at Pandora is set out in **Table 5**.

A number of resource consents are required from the HBRC as coastal hazard mitigation works are not captured by a single rule, rather they must be considered in their individual parts. Overall, resource consents for both HBRC and NCC will likely be 'bundled', with an overall activity status of non-complying. Separate applications could be made however to ensure the NCC consent retains its discretionary status.

As discussed later in section 5, part of the proposal may also be prohibited within the Significant Conservation Area. No consent can be sought for such activities.

Table 5: Summary of likely consent requirements at Pandora. Blue shading identifies consents required from the HBRC, while green shading identifies consents required from NCC.

Consent Requirement	Activity Status
Soil disturbances (i.e. earthworks) and potentially vegetation removal within the coastal margin and less than 20m of the coastal marine area	Restricted Discretionary. <sup>53</sup>
The discharge of solid contaminants, including clean fill in the coastal margin that may enter water	Discretionary <sup>fel</sup>
Discharge of contaminants in the coastal margin	Discretionary <sup>55</sup>

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Napier City Council, Isthmus and Mitchell Daysh, 2018. Ahuriri Estuary and Coastal Edge Master Plan.

<sup>52</sup> Napier City Council, Isthmus and Mitchell Daysh, 2018. Ahuriri Estuary and Coastal Edge Master Plan.

Rule 8, Hawke's Bay Regional Coastal Environment Plan.

Rule 18, Hawke's Bay Regional Coastal Environment Plan.

<sup>55</sup> Rule 9, Hawke's Bay Regional Coastal Environment Plan.

Consent Requirement	Activity Status
Disturbance of the foreshore and seabed associated with the construction of the coastal protection structure within the coastal marine area.	Discretionary <sup>56</sup>
The construction and placement of a coastal protection structure <sup>67</sup> in the coastal marine area which presents a significant barrier to water, is established parallel to mean high water sprints and extends for 300m or more (cumulative).	Non-complying <sup>58</sup>
The occupation of the coastal marine by coastal protection structures (including storm surge barriers).	Discretionary <sup>59</sup>
The damming and diversion of coastal water.	Discretionary <sup>60</sup>
The establishment of a wave structure in the coastal marine area.	Discretionary <sup>ts</sup>
The erection or placement of any structure in the coastal marine area that would impound or effectively contain the coastal marine area in the Significant Conservation Areas of the Ahuriri Estuary (SCA12).	Prohibited <sup>62</sup>
Coastal Protection Structures within the Boat Harbour, Estuary, Reserve and Mixed-Use Zones.	Discretionary <sup>69</sup>
The erection of structures crossing mean high water spring.	Discretionary <sup>64</sup>
Development or land use that does not comply with the relevant conditions (i.e. height, height in relation to boundary, yards, noise and vibration and earthworks) in the Boat Harbour, Estuary, Reserve and Mixed-Use Zones.	Restricted Discretionary <sup>65</sup>
The removal of greater than 100m <sup>3</sup> of earth within a 12-month period from any zone.	Discretionary <sup>66</sup>

Rule 130, Hawke's Bay Regional Coastal Environment Plan.

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<sup>57</sup> Coastal Protection Works means any works used to reduce risks posed by coastal erosion and/or inundation by the sea to human life, property, or the environment and includes coastal protection structures and beach nourishment.

Rule 125, Hawke's Bay Regional Coastal Environment Plan.

<sup>&</sup>lt;sup>59</sup> Rule 178, Hawke's Bay Regional Coastal Environment Plan.

Rule 155, Hawke's Bay Regional Coastal Environment Plan.

<sup>&</sup>lt;sup>61</sup> Rule 117, Hawke's Bay Regional Coastal Environment Plan.

Rule 128, Hawke's Bay Regional Coastal Environment Plan.

<sup>83</sup> Rule 42.8(e), Rule 43.7(a) and (e) and Rule 46.7.1(a) and (f), City of Napier District Plan.

<sup>64</sup> Rule 42.8(a), 42.8.1(a) and 43.7.1(a), City of Napier District Plan.

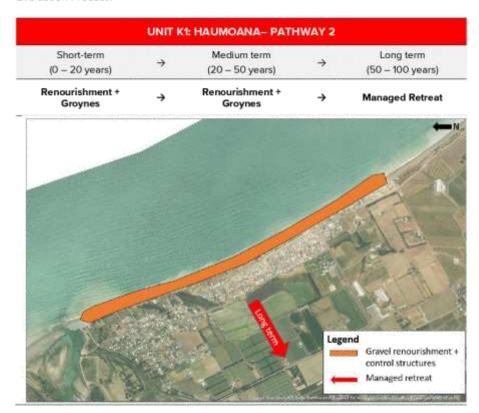
<sup>65</sup> Rules 42.7, 43.6, 50A.26 and 46.6, City of Napier District Plan.

<sup>66</sup> Rule 5A.10, City of Napier District Plan.

#### 3.5 HAUMOANA

#### 3.5.1 Haumoana Short-term Adaptation Response

The Southern Assessment Panel identified the following preferred short, medium- and long-term adaptation responses for the Haumoana Priority Unit as part of Stage 3 of the Evaluation Process:67



Groynes and renourishment were identified as the preferred short-term adaptation response for Haumoana and Te Awanga (discussed in section 3.6). Following modelling of various scenarios, two preferred engineering concepts were identified. The larger of the two options is set out in the following section as it creates the greater consenting challenge.

As currently proposed, the short-term adaptation for both Haumoana and Te Awanga (Figure 17) includes:

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Sections 9.4, Mitchell Daysh Limited (2018). Report of the Northern and Southern Cell Assessment Panels.

### Initial works:

- The construction of ten new groyne structures, five near Haumoana, five near Te Awanga;
- Initial nourishment of 347,000m³;
- Construction of a gravel barrier: 29,385m³ (across three sites)

# Ongoing Maintenance Works:

- Potential for decreased supply: 10,000m<sup>3</sup>/y.
- Shoreline Evolution Modelling: 13,000m³/y.
- Consideration for sea level rise loss: 93m/y.
- Gravel Barrier Maintenance (approximately 5% per year): 1,469m³/y.

Note that East Clive is included in these models as the adaptation responses necessitate nourishment to mitigate the downdrift negative effects at East Clive.

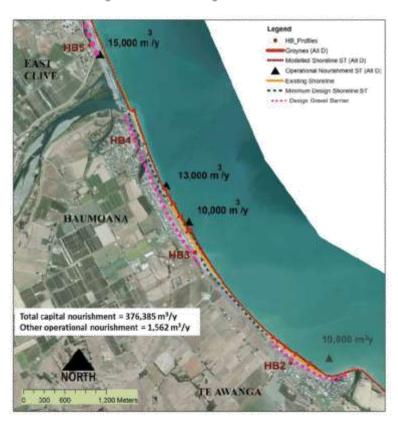


Figure 17: Overview of the proposed short-term adaptation response for Haumoana and Te Awanga (Beya and Asmat, 2019).

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#### 3.5.2 Regional and District Planning Provisions

The Haumoana priority unit is located within the jurisdiction of the HBRC and HDC.

## Zoning

Most of the foreshore in Haumoana is zoned Open Space in the Hastings District Plan. To the west of this area, the land is primarily used for residential or production purposes. A small area of residential housing, referred to as the "Haumoana 18" is located directly adjacent to the shore and is surrounded by Open Space zoning.

To the north of Haumoana is a Recommended Area for Protection. This area is associated with the Tukituki Estuary and is particularly valued for its high wildlife rate, bittern and spotless crake present in back waters. White heron also winter in this area.

An overview of the key zones that apply to this area under the Hastings District Plan is provided in Figure 18.



Figure 18: Zoning of the Haumoana, Te Awanga and surrounds under the Hastings District Plan.

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Haumoana is also located within the Coastal Environment, as mapped in the Regional Coastal Environment Plan. The area is subject to a number of coastal hazard notations, with both the Coastal Hazard 1 and 2 overlays intersecting residential properties within the priority unit.

Inland of the of the proposed gravel renourishment and control structures, broad areas of Haumoana are overlaid by the Coastal Hazard 3 notation. The foreshore area is also subject to a Class CR (HB) Water overlay. Immediately north of Haumoana is the Tukituki River. This area is identified as a Significant Conservation Area (**SCA10**).

An overview of the key zones that apply to this area under the Regional Coastal Environment Plan is provided in **Figure 19**. The HBRC Hazards Portal also contains update to date mapping on coastal hazards within this area.<sup>68</sup>

https://hbmaps.hbrc.govt.nz/hazards/



Figure 19: Zoning of Haumoana and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

#### Key Environmental Values at Haumoana

The key environmental values at and in the vicinity of the Haumoana priority unit are set out below.

- Haumoana Domain is an important coastal reserve within the Hastings District and Hawke's Bay region and extends from the Tukituki River to Te Awanga. This is a reserve under the Reserves Act 1977 for Recreation Reserve purposes.
- The 35ha reserve covers 4km of the coastline and hold ecological values. The Domain experiences high volumes of public use and is a tourism and local recreation destination.<sup>69</sup>
- As identified on the HBRC P\u00e4tata mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Heretaunga. The Treaty Partner Land Area associated with Heretaunga Tamatea Settlement Trust also overlays the landward area and the Kahungunu ki Te Matau a M\u00e4ui Rohe Moana over the coastal
- Historic fishing village / papakainga located at the end of Grange Road and a pa site located further inland are of particular cultural importance in this area.<sup>70</sup>
- There is an existing groyne and associated riverbank armouring at the southern side of the Tukituki River mouth owned and maintained by the HBRC.
- Offshore, between the Tukituki River and Cape Kidnappers is "Clive Hard", an area where the seabed is comprised of a cobble and pebble habitat in an otherwise featureless sand environment. This area is reputedly an important habitat for juvenile fish, particularly snapper, and is popular for recreational fishing.

# Likely Resource Consents Required

The likely resource consents required to implement the short-term adaptation response at Haumoana is set out in **Table 6**.

A number of resource consents are required from the HBRC as coastal hazard mitigation works are not captured by a single rule, rather they have to be considered in their individual parts. Overall, resource consents from both HBRC and HDC will likely be 'bundled', with an overall activity status of non-complying.

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Cape Coast Area Coastal Hazards Social Impact Assessment and Valuation, prepared by Marven Consulting, February 2017.

As identified as part of the Stage 3 of the multi-criteria decision-making analysis process for the Southern Assessment Panel. Criteria specifically related to the relationships of Maori and their culture and traditions with their ancestral lands, water, sites washi tapu and other taongs.

Table 6: Summary of likely consent requirements at Haumoana. Blue shading identifies consents required from the HBRC, while green shading identifies consents required from HDC.

Consent Requirement	Activity Status		
Soil disturbances (i.e. earthworks) and potentially vegetation removal within the coastal margin and less than 20m of the coastal marine area	Restricted Discretionary.71		
The discharge of solid contaminants, including clean fill in the coastal margin that may enter water	Discretionary <sup>72</sup>		
Discharge of contaminants in the coastal margin.	Discretionary <sup>73</sup>		
Disturbance of the foreshore and seabed associated with the construction of the proposed groynes within the coastal marine area.	Discretionary <sup>74</sup>		
An activity involving the erection of a coastal protection structure in the coastal marine area which presents a significant barrier to water and is established obliquely or perpendicular to the line of mean high water spring	Non-complying <sup>75</sup>		
The erection, placement and construction (including extension) of the proposed groynes within the coastal margin and wholly or partly located within the Coastal Hazard Zone 1 or 2.	Non-complying <sup>76</sup>		
The occupation of the coastal marine by coastal protection structures (i.e. groynes).	Discretionary <sup>77</sup>		
The deposition of material on the foreshore or seabed in quantities greater than 50,000m <sup>3</sup> in any 12-month period in the <b>coastal marine</b> area.	Discretionary <sup>78</sup>		
The deposition of sediment (i.e. gravel barriers) in the coastal margin in volumes greater than 5m3/six months per property within the Coastal Hazard 1 Zone	Restricted discretionary <sup>79</sup>		

Rule 8, Hawke's Bay Regional Coastal Environment Plan.

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Rule 18, Hawke's Bay Regional Coastal Environment Plan.

Rule 9, Hawke's Bay Regional Coastal Environment Plan.

Rule 130, Hawke's Bay Regional Coastal Environment Plan.

Rule 125, Hawke's Bay Regional Coastal Environment Plan.

Rule 100, Hawke's Bay Regional Coastal Environment Plan.

<sup>77</sup> Rule 178, Hawke's Bay Regional Coastal Environment Plan.

Rule 151, Hawke's Bay Regional Coastal Environment Plan.

<sup>78</sup> Rule 104, Hawke's Bay Regional Coastal Environment Plan.

Consent Requirement	Activity Status	
The removal of gravel and other earthworks within the coastal in volumes greater than 5m3/six months per property within the Coastal Hazard 1 Zone.	Non-complying <sup>80</sup>	
Earthworks exceeding the permitted volumes.	Discretionary <sup>it</sup>	
Natural hazard defence structures such as groynes within the Open Space Zone, Coastal Settlement Zones and Plains Production Zone	Non-complying <sup>82</sup>	

<sup>80</sup> Rule 109, Hawke's Bay Regional Coastal Environment Plan.

<sup>81</sup> Rule EM10 and EM11 of the Hastings District Plan.

Rule OSZ15, CSZ23 and PP39, Hastings District Plan.

#### **TE AWANGA** 3.6

#### 3.6.1 Te Awanga Short-term Adaptation Response

The Southern Assessment Panel identified the following preferred short, medium- and long-term adaptation responses for the Te Awanga priority unit as part of the Stage 3 Evaluation Process:83



The further engineering concept designs for this area have been identified in section 3.5.1 and are shown in Figure 17.

#### 3.6.2 Regional and District Planning Provisions

The Te Awanga priority unit is located within the jurisdiction of the HBRC and HDC.

### Zoning

The land use zoning of the waterfront at Te Awanga is comprised of a combination of Open Space and Plains Production Zone. To the north west of Te Awanga is a

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Sections 9.3, Mitchell Daysh Limited, 2018. Report of the Northern and Southern Cell Assessment Panels.

Recommended Area for Protection. This area is associated with the only known threatened plant Muchlenbeckia ephedroides in the Ecological District.

An overview of the key zones that apply to this area under the Hastings District Plan is provided in **Figure 20**.



Figure 20: Zoning of Te Awanga and surrounds under the Hastings District Plan.

Te Awanga is also located within the Coastal Environment, as mapped in the Regional Coastal Environment Plan. The area is subject to a number of coastal hazard notations, with both the Coastal Hazard 1 and 2 overlays intersecting residential properties within the priority unit.

Inland of the of the proposed gravel renourishment and control structures, broad areas of Te Awanga are overlaid by the Coastal Hazard 3 notation. The foreshore area is also subject to a Class CR (HB) Water overlay.

An overview of the key zones that apply to this area under the Regional Coastal Environment Plan is provided in **Figure 21**.

The HBRC Hazards Portal also contains more recent ("2016/17) mapping on coastal hazards within this area.<sup>84</sup>

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https://hbmaps.hbrc.govt.nz/hazards/



Figure 21: Zoning of Te Awanga and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

## Key Environmental Values at Te Awanga

The key environmental values at and in the vicinity of the Haumoana Priority Unit are set out below.

- The Te Awanga Domain is well utilised by the community and includes the lagoon and waterway and is a key scenic feature of the reserve of the Cape Coast. <sup>85</sup> It is also a popular surf beach. Te Awanga Domain is a reserve under the Reserves Act 1977 for Recreation Reserve purposes.
- The Maraetotara River and coastal wetlands hold conservation values and are also home to a number of archaeological sites.
- As identified on the HBRC P\u00e4taka mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Heretaunga. The Treaty Partner Land Area associated with Heretaunga Tamatea Settlement Trust also overlays the landward area and the Kahungunu ki Te Matau a M\u00e4ui Rohe Moana over the coastal areas.
- Offshore, between the Tukituki River and Cape Kidnappers is "Clive Hard", an area where the seabed is comprised of a cobble and pebble habitat in an otherwise

Marven Consulting, 2017. Cape Coast Area Coastal Hazards Social Impact Assessment and Valuation.

featureless sand environment. This area is considered to be an important habitat for juvenile fish, particularly snapper, and is popular for recreational fishing.

# Likely Resource Consents Required

The likely resource consents required to implement the short-term adaptation response at Te Awanga is set out in **Table 7**.

A number of resource consents are required from the HBRC as coastal hazard mitigation works are not captured by a single rule, rather they have to be considered in their individual parts. Overall, resource consents will from both HBRC and HDC will likely be 'bundled', with an overall activity status of non-complying.

Table 7: Summary of likely consent requirements at Te Awanga. Blue shading identifies consents required from the HBRC, while green shading identifies consents required from HDC.

Consent Requirement	Activity Status
Soil disturbances (i.e. earthworks) and potentially vegetation removal within the coastal margin and less than 20m of the coastal marine area.	Restricted Discretionary. <sup>80</sup>
The discharge of solid contaminants, including clean fill in the coastal margin that may enter water.	Discretionary <sup>87</sup>
Discharge of contaminants in the coastal margin.	Discretionary <sup>88</sup>
Disturbance of the foreshore and seabed associated with the construction of the proposed groynes within the coastal marine area.	Discretionary <sup>88</sup>
An activity involving the erection of a coastal protection structure in the coastal marine area which presents a significant barrier to water and is established obliquely or perpendicular to the line of mean high water spring.	Non-complying <sup>90</sup>
The erection, placement and construction (including extension) of the proposed groynes within the coastal margin and wholly or partly located within the Coastal Hazard Zone 1 or 2.	Non-complying <sup>9†</sup>

Rule 8, Hawke's Bay Regional Coastal Environment Plan.

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Rule 18, Hawke's Bay Regional Coastal Environment Plan.

Rule 9, Hawke's Bay Regional Coastal Environment Plan.

Rule 130, Hawke's Bay Regional Coastal Environment Plan.

Rule 125, Hawke's Bay Regional Coastal Environment Plan.

<sup>&</sup>lt;sup>91</sup> Rule 100, Hawke's Bay Regional Coastal Environment Plan.

Consent Requirement	Activity Status
The occupation of the coastal marine by coastal protection structures (i.e. groynes).	Discretionary <sup>92</sup>
The deposition of material on the foreshore or seabed in quantities greater than 50,000m <sup>3</sup> in any 12-month period in the coastal marine area.	Discretionary <sup>58</sup>
The deposition of sediment (i.e. gravel barriers) in the coastal margin in volumes greater than 5m3/six months per property within the Coastal Hazard 1 Zone.	Restricted discretionary <sup>se</sup>
The removal of gravel and other earthworks within the coastal in volumes greater than 5m3/six months per property within the Coastal Hazard 1 Zone.	Non-complying <sup>85</sup>
Earthworks exceeding the permitted volumes.	Discretionary <sup>56</sup>
Natural hazard defence structures such as groynes within the Open Space Zone, Coastal Settlement Zones and Plains Production Zone.	Non-complying <sup>97</sup>

Rule 178, Hawke's Bay Regional Coastal Environment Plan.

<sup>&</sup>lt;sup>93</sup> Rule 151, Hawke's Bay Regional Coastal Environment Plan.

Pule 104, Hawke's Bay Regional Coastal Environment Plan.

<sup>90</sup> Rule 109, Hawke's Bay Regional Coastal Environment Plan.

Rule EM10 and EM11 of the Hastings District Plan.

<sup>&</sup>lt;sup>97</sup> Rule OSZ15, CSZ23 and PP39, Hastings District Plan.

#### 3.7 CLIFTON

#### 3.7.1 Clifton Short-term Adaptation Response

The Southern Assessment Panel identified the following preferred short, medium- and long-term adaptation responses for the Clifton priority unit as part of the Stage 3 Evaluation Process:98





A 480m long reventment was recently repaired and constructed as part immediate steps to address coastal erosion in this area. To complete the short-term pathway, a further 630m is required to be constructed either side of the existing structure (Figure 22).

Renourishment was also undertaken as part of the recent retvetment work. In addition to the existing (approximate) 1305m<sup>3</sup>/y of renourishment required, it is estimated that approxiamtely 2,055m<sup>3</sup>/y of additional renourishment will be required in association with the proposed extension to the revetment.

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Section 9.2, Mitchell Daysh Limited, 2018. Report of the Northern and Southern Cell Assessment Panels.



Figure 22: Proposed extension to the existing revetment at Clifton (Beya and Asmat, 2019).

# 3.7.2 Regional and District Planning Provisions

The Clifton Unit is located within the jurisdiction of the HBRC and HDC.

# Zoning

The Clifton area is primarily zoned for Open Space Purposes. Immediately west of this area, the land is zoned Rural. The area is also identified as Coastal Landscape Character Area.

The outstanding natural landscape area associated with Cape Kidnappers is located directly east of Clifton.

A number of culturally significant archaeological sites are located within this area.

An overview of the key zones that apply to this area under the Hastings District is provided in Figure 23.



Figure 23: Zoning of the Clifton Unit and surrounds under the Hastings District Plan

Clifton is also located within the Coastal Environment, as mapped in the Regional Coastal Environment Plan. The Coastal Hazard 1 overlay intersects a number of the existing properties in this area, with the Coastal Hazard 2 overlay generally located well beyond these properties. The low-lying area around Clifton Road is also subject to the Coastal Hazard 3 notation.

The foreshore area is subject to a Class CR (HB) Water overlay. The Significant Conservation Area (SCA9) associated with Cape Kidnappers is located at the eastern end of Clifton.

An overview of the key zones that apply to this area under the Regional Coastal Environment Plan is provided in **Figure 24**. The HBRC Hazards Portal also contains more recent (~2016/17) mapping on coastal hazards within this area.<sup>99</sup>

<sup>99</sup> https://hbmaps.hbrc.govt.nz/hazards/



Figure 24: Zoning of the Clifton Unit and surrounds under the Hawke's Bay Regional Coastal Environment Plan.

### Key Environmental Values

The key environmental values at and in the vicinity of the Clifton Priority Unit are set out below:

- Clifton is located directly adjacent to Cape Kidnappers, an outstanding natural landscape and ecological area, including the significant gannet bird colony.
- As identified on the HBRC Pātaka mapping resource, the area lies within the Ngati Kahungunu iwi boundary and Te Taiwhenua O Heretaunga. The Treaty Partner Land Area associated with Heretaunga Tamatea Settlement Trust also overlays the landward area and the Kahungunu ki Te Matau a Māui Rohe Moana over the coastal areas.
- The area holds high cultural values with numerous archaeological associated within pre 1769 Maori occupation located in this area.
- The area holds high recreation values and contains the only slipway providing access to the coast in this area. It is also home to the Clifton Marine Club Incorporated. 100
- The Clifton Domain is a reserve under the Reserves Act 1977 for Recreation Reserve purposes.
- Offshore, between the Tukituki River and Cape Kidnappers is "Clive Hard", an area where the seabed is comprised of a cobble and pebble habitat in an otherwise

Cape Coast Area Coastal Hazards Social Impact Assessment and Valuation, prepared by Marven Consulting, February 2017.

featureless sand environment. This area is reputedly an important habitat for juvenile fish, particularly snapper, and is popular for recreational fishing.

## Like Resource Consents Required

The likely resource consents required to implement the short-term adaptation response at Te Awanga is set out in **Table 8**.

A number of resource consents are required from the HBRC as coastal hazard mitigation works are not captured by a single rule, rather they must be considered in their individual parts. Overall, resource consents will from both HBRC and HDC will likely be 'bundled', with an overall activity status of non-complying.

Table 8: Summary of likely consent requirements at Clifton. Blue shading identifies consents required from the HBRC, while green shading identifies consents required from HDC.

Consent Requirement	Activity Status		
Soil disturbances (i.e. earthworks) and potentially vegetation removal within the coastal margin and less than 20m of the coastal marine area.	Restricted Discretionary. <sup>101</sup>		
The discharge of solid contaminants, including clean fill in the coastal margin that may enter water.	Discretionary <sup>102</sup>		
Discharge of contaminants in the coastal margin.	Discretionary <sup>103</sup>		
Disturbance of the foreshore and seabed associated with the construction of the proposed revetment within the coastal marine area.	Discretionary <sup>104</sup>		
The maintenance and repair of coastal protection structures (i.e. the existing wall where necessary) wholly or partially located within the Coastal Hazard Zone 1 or 2.	Restricted discretionary <sup>105</sup>		
The erection, placement and construction (including extension) of the proposed coastal protection structure within the coastal margin and wholly or partly located within the Coastal Hazard Zone 1 or 2.	Non-complying <sup>106</sup>		

Rule 8, Hawke's Bay Regional Coastal Environment Plan.

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<sup>102</sup> Rule 18, Hawke's Bay Regional Coastal Environment Plan.

Rule 9, Hawke's Bay Regional Coastal Environment Plan.

Rule 130, Hawke's Bay Regional Coastal Environment Plan.

Rule 98, Hawke's Bay Regional Coastal Environment Plan.
 Rule 100, Hawke's Bay Regional Coastal Environment Plan.

Consent Requirement	Activity Status
An activity involving the erection of a coastal protection structure in the <b>coastal marine area</b> which presents a significant barrier to water and when established, will extend more than 300m in length.	Non-complying <sup>107</sup>
The occupation of the coastal marine by coastal protection structures (i.e. revetment).	Discretionary <sup>108</sup>
The deposition of material on the foreshore or seabed in quantities less than 50,000m <sup>3</sup> in any 12-month period in the <b>coastal marine</b> area.	Restricted discretionary <sup>109</sup>
The deposition of sediment (i.e. gravel barriers) in the coastal margin in volumes greater than 5m3/six months per property within the Coastal Hazard 1 Zone.	Restricted discretionary <sup>no</sup>
Earthworks exceeding the permitted volumes.	Discretionary <sup>III</sup>
Natural hazard defence structures such as groynes within the Open Space Zone, Coastal Settlement Zones and Plains Production Zone.	Non-complying <sup>rt2</sup>

# OVERVIEW OF REGULATORY FRAMEWORK

#### NEW ZEALAND COASTAL POLICY STATEMENT 4.1

The purpose of the New Zealand Coastal Policy Statement ("NZCPS") is to state objectives and policies in order to achieve the overarching purpose of the Resource Management Act 1991 ("RMA" or "the Act") in relation to the coastal environment. 113 The NZCPS is a national policy statement under the RMA and took effect in December 2010. 114 Section 104(1)(b)(iv) of the RMA requires that when considering an application for resource consent, regard must be had to any relevant provisions of a NZCPS.

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<sup>&</sup>lt;sup>107</sup> Rule 125, Hawke's Bay Regional Coastal Environment Plan.

Rule 178, Hawke's Bay Regional Coastal Environment Plan.

Rule 147, Hawke's Bay Regional Coastal Environment Plan.

Rule 104, Hawke's Bay Regional Coastal Environment Plan.

Rule EM10 and EM11 of the Hastings District Plan.

Rule OSZ15, CSZ23 and PP39, Hastings District Plan.

Section 56 of the RMA.

The NZCPS took effect after decisions on submissions on the Regional Coastal Environment Plan were notified in July 2008, therefore the Regional Coastal Environment Plan cannot be taken as having given full effect to the NZCPS.

All regional policy statements, regional coastal plans and district plans must give effect to the provisions of the NZCPS.<sup>TIS</sup> The NZCPS, therefore, guides the policy framework for all planning documents pertaining to the coastal environment throughout New Zealand.

The key themes in the NZCPS that are specifically relevant to the consentability of the short-term adaptation options relate tangata whenua values, indigenous biodiversity and landscapes and coastal hazards. These are discussed in detail in section 3.2.1 of the companion policy and regulatory review report. <sup>116</sup>

## 4.2 HAWKE'S BAY REGIONAL RESOURCE MANAGEMENT PLAN

The Hawke's Bay Regional Resource Management Plan sets out the policy and rule framework for the management of resource use activities in Hawke's Bay and includes an operative Regional Policy Statement ("RPS").

The RPS seeks to set out the strategic direction that the HBRC and local authorities will take to achieve the purpose of the RMA. As the RPS is required to give effect to Part 2 of the RMA and the NZCPS, its objectives contain similar themes to this higher order document. The RPS is not as directive as the NZCPS however as it predates the current NZCPS being made operative in 2010.

The key and directive provisions contained within the RPS that are likely to have greatest bearing on the consenting of the short-term adaptation responses is evaluated in section 3.3.1 of the companion policy and regulatory report. That evaluation is not repeated here. 117

For avoidance of doubt, the regional plan content (including rules) in the Regional Resource Management Plan do not apply within the coastal environment within the Hawke's Bay. The Regional Coastal Environment Plan is the applicable and relevant regional plan.

### 4.3 HAWKE'S BAY REGIONAL COASTAL ENVIRONMENT PLAN

The Regional Coastal Environment Plan is the planning instrument that sets out the framework for managing resource use activities within the coastal marine area of Hawke's Bay as well as the wider coastal environment. It is noted that the NZCPS came into effect after decisions on submissions on the Regional Coastal Environment Plan were notified in July 2008. This means that the Regional Coastal Environment Plan cannot be taken as having given full effect to the NZCPS, therefore necessitating the assessment of plan changes and applications for discretionary or non-complying activities against the NZCPS.

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Sections 61(1)(da), section 66(1)(ea) and section 74(1)(ea) of the RMA respectively.

Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Stage 4 Regulatory Review: Clifton to Tangolo Coastal Hazard Strategy 2120.

Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Stage 4 Regulatory Review: Clifton to Tangolo Coastal Hazard Strategy 2120.

It is also noted that, for this reason, the NZCPS is likely to carry greater weight in any planning assessment on matters that the RCEP does not currently fully give effect to.

The key and directive provisions contained within the Regional Coastal Environment Plan that are likely to have greatest bearing on the consenting of the short-term adaptation responses is evaluated in section 3.3.2 of the companion policy and regulatory report. That evaluation is not repeated here. 18

### 4.4 CITY OF NAPIER DISTRICT PLAN

NCC are currently reviewing the City of Napier District Plan and intend to publicly notify a draft district plan for comments by the end of 2020. The existing operative district plan will however continue to have legal effect for some time into the future until the submission and hearing process progresses for the proposed plan.

Of the seven priority units considered in this report, the following are located within the jurisdiction of NCC and thus require consideration under the City of Napier District Plan:

- > Bay View
- Westshore
- Pandora

The key and directive objectives and policies contained within the City of Napier District Plan that are likely to have greatest bearing on the consentability of the short-term adaptation responses is evaluated in section 3.3.4 of the companion policy and regulatory report. That evaluation is not repeated here. <sup>198</sup>

## 4.5 HASTINGS DISTRICT PLAN

Of the seven priority units considered in this report, the following are located within the jurisdiction of HDC and thus require consideration under the Hastings District Plan:

- Whirinaki
- Haumoana
- > Te Awanga
- > Clifton

The key and directive provisions contained within the Hastings District Plan that are likely to have greatest bearing on the consentability of the short-term adaptation responses is

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evaluated in section 3.3.3 of the companion policy and regulatory report. That evaluation is not repeated here. 120

#### 5. **KEY CONSENTING ISSUES AND CONSENTING RISKS**

#### 5.1 OVERVIEW OF CONSENTING REQUIREMENTS

A number of resource consents will be required under the Regional Coastal Environment Plan, Napier City District Plan and Hastings District Plan to implement the short-term adaptation responses across the seven priority units.

The general nature of the consent required for each site is shown in Table 9.

Table 9: Summary of the types of resource consents required for each Priority Unit.

Types of activities requiring consent (coastal permits, discharge permits and/or land use consents) under the Hawke's Bay Regional Coastal Environment Plan and City of Napier or Hastings District Plan	Whirinaki	Bay View	Westshore	Pandora	Haumoana	Te Awanga	Clifton
Land use consent - Renourishment (deposition) on the foreshore or seabed	<b>√</b>	✓	1		1	<b>√</b>	<b>√</b>
Land use consent - Renourishment (above mean high water spring) within the coastal margin			<b>√</b>		1	✓	1
Land use consent - Soil disturbance / earthworks within the coastal margin				✓	✓	✓	✓
Discharge permit - Discharge of solid contaminants in the coastal margin				✓	4	<b>√</b>	1
Discharge permit - Discharge of contaminant in the coastal margin				✓	✓	1	1
Coastal permit - Disturbance of the foreshore and seabed associated with the				4	1	<b>✓</b>	1

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Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Stage 4 Regulatory Review: Clifton to Tangoio Coastal Hazard Strategy 2120.

Types of activities requiring consent (coastal permits, discharge permits and/or land use consents) under the Hawke's Bay Regional Coastal Environment Plan and City of Napier or Hastings District Plan	Whirinaki	Bay View	Westshore	Pandora	Haumoana	Te Awanga	Clifton
construction of coastal protection structures within the coastal marine area							
Coastal permit - Construction of a coastal protection structure in the coastal marine area				1	1	<b>√</b>	1
Land use consent - Construction of a coastal protection structure in the coastal margins (including within land use zones)				4	1	1	1
Coastal permit - Occupation of the coastal marine area by coastal protection structures				<b>*</b>	1	<b>√</b>	1
Water permit/coastal permit - Damming and diversion of coastal water				1			
Coastal permit - Structures impounding Significant Conservation Areas (Ahuriri Estuary)				<b>*</b>			

In accordance with the "bundling" concept under the RMA, the consenting of the shortterm adaptation responses at Pandora, Haumoana, Te Awanga and Clifton will all likely attract a non-complying activity status.

Resource consent applications for a non-complying activity must pass one of the two 'gateway' tests in section 104D of the RMA. If either gateway test is satisfied, the application may be granted or declined, having regard to the provisions of section 104 of the RMA. If the application fails both tests, consent cannot be granted. The tests are whether adverse effects will be "more than minor" (section 104(1)(a)) and/or whether the proposal will "not be contrary to" the objectives and policies of the relevant Regional or District Plan/s (section 104(1)(b)).

### Section 104D of the RMA states:

104D Particular restrictions for non-complying activities

- Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either-
  - (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-
    - The relevant plan, if there is a plan but no proposed plan in respect of the activity; or
    - (ii) The relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
    - (iii) Both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.
- To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.

With respect to the first gateway test (and as noted above), an assessment commensurate with the effects of the engineering concept designs will be required, as discussed in the following sections. This assessment will need to demonstrate that the effects of the proposal, including the cumulative effects, will be no more than minor. If this cannot be demonstrated, the proposal will fail to pass the first gateway test.

With respect to the second gateway, case law has established that "not contrary to" does not mean that an activity must comply with every individual objective and policy in the relevant plan. As noted in the following sections and the companion regulatory review report, there are some provisions, particularly in the NZCPS that could create some considerable consenting challenges, particularly in terms of passing the second gateway test. If the second gateway cannot be met, it does elevate the significance of the first gateway and the necessity for the effects to be less than minor.

In addition to the consent requirements set out in Table 9, approvals are also likely to be required for the short-term adaptation pathways under a number of statutes, as discussed in the following sections and shown in **Table 10**.

Table 10: Summary of associated approvals required under other statutes for each Priority Unit.

Statues		-1					
	Whirinaki	Bay View	Westshore	Pandora	Haumoana	Te Awanga	Clifton
Building Act 2002		1		4	1	1	1
Reserves Act 1977	✓	4	1	4	4	1	1
Marine and Coastal Area (Takutai Moana Act)	1	1	1	1	1	1	1
Heritage New Zealand Pouhere Taonga Act 2014							1

### 5.2 NEW ZEALAND COASTAL POLICY STATEMENT

The NZCPS is the preeminent planning document in the coastal environment and will be a key consideration for future resource consent applications to implement the short-term adaptation responses. The NZCPS is considered in detail in the companion policy and regulatory review report prepared by Mitchell Daysh Limited. <sup>221</sup>

In summary however, the directive language used within Policies 11, 13 and 15 effectively establishes 'bottom lines' as the policies all seek to avoid (i.e. not allow or prevent the occurrence of) certain effects in the interests of protecting indigenous biodiversity (Policy 11), preserving natural (Policy 13) and protection natural features and landscapes (Policy 15). In places of outstanding or high natural character or landscape value, or where ecological values are significant, the 'avoid' language in Policies 11, 13 and 15 (and the policies in corresponding lower-order plans) can effectively act as a bar to consents being able to be obtained.

For each of the Priority Units, it would be prudent to consider undertaking a robust evaluation of the indigenous biodiversity value, natural character or natural features present in order to determine whether the proposed adaptation response must be entirely avoided in these areas or whether an appropriate management response is available. This will be particularly important for parts of the Pandora priority unit which are located on the

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edge of a significant conservation area. It will also be important for the Haumoana and Te Awanga Priority Units as the groyne fields will introduce new built structures into a largely "natural" foreshore (acknowledging that an existing groyne is present near the Tukituki River mouth at Haumoana). This is discussed in more detail with respect to each unit is section 2.8 and 2.9 below.

Turning to the natural hazard protections, there is a clear preference for natural or "soft" defences (such as renourishment and planting) to be established over hard protection structures (such as sea walls and groynes). The weight afforded to these provisions could therefore be determinative for future applications at Clifton, Pandora, Haumoana and Te Awanga, particularly where resource consent is required for a non-complying activity. Recent consent applications for non-complying hard protection structures within the region (Clifton and Whakarire Avenue - refer to section 6 for case studies) have not found these provisions to present insurmountable consenting challenges. In both instances however, space constraints were a factor due to the proximity of the structures to existing built up environments and also likely due to the design life of the structures. Given these factors, it is unlikely that an extension to the existing structure at Clifton or the introduction of new features in the built-up areas of Pandora where the existing environment is already highly modified will be presented with the same consenting challenges as the Haumoana and Te Awanga Priority units where less built up infrastructure exists. Drawing on the work undertaken as part of Stage 3 of the Strategy, a detailed assessment of alternatives will need to accompany the resource consent applications which demonstrates why, in the circumstances, natural or soft barriers were not a via short-term solution.

The NZCPS also requires that historic heritage is protected from inappropriate subdivision, use and development. Within areas of known heritage value or areas where it is likely that historic artefacts may be found, care will need to be taken to ensure that it can be demonstrated the relevant resource consent applications that development of coastal protection structures are not "inappropriate" in the circumstances. While this is likely to involve a weighting exercise of the benefits of the proposal, it is noted that other statutes such as the Heritage New Zealand Pouhere Taonga Act 2014 is likely to present greater statutory barriers than this NZCPS policy in isolation.

#### MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011 5.3

The Marine and Coastal Area (Takutai Moana) Act 2011 ("MACA") acknowledges the importance of the marine and coastal area to all New Zealanders and provides for the recognition of the customary rights of iwi, hapū and whānau in the common marine and coastal area.122

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https://tearawhiti.govt.nz/te-kahui-takutai-moana-marine-and-coastai-area/

There are two avenues available under MACA: direct Crown engagement and applications to the High Court. There are currently a number of MACA applications for various stretches of the Hawke's Bay region's coastline for customary marine title and / or protected customary rights. The application area of the following groups includes the coastal marine area covered by the seven Priority Units: 123

- Heretaunga Tamatea Settlement Trust. 124
- Maungaharuru-Tangitū Hapū. 126
- He Toa Takitini (Heretaunga Tamatea). 126
- Mana Ahuriri Incorporated.<sup>127</sup>
- Te Aitanga a Puta, Ngati Kurupakia e Ngai Tauira Hapu. 128
- > Ngai Tamahaua hapu (Herewini).
- Ngāti Pāhauwera.<sup>129</sup>
- Ngāti Parau Hapū.<sup>130</sup>

As noted in detail in the companion policy and regulatory review report prepared by Mitchell Daysh Limited, <sup>131</sup> if an activity requiring a resource consent is within the area of a customary marine title application, the resource consent applicant is required to notify and consult with that customary marine title applicant group/s. If a customary marine title determination is made, then a consent applicant must have written permission from that customary marine title group.

If an activity requiring resource consent is in an area where a group exercises protected customary rights, the consent will not be granted if the activity will have more than minor adverse effects on the rights unless permission of the protected customary rights group is obtained.

While no determinations have been made under the MACA at this stage for either customary marine title or protected customary rights, although there are a number of processes, including some High Court proceedings are in train in the Hawke's Bay. Until

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Based on the maps appended to each application published on Te Arawhiti website (https://tearawhiti.govt.nz/).

Relevant to the Te Awanga, Haumoana and Clifton Priority Units.

<sup>129</sup> Relevant to the Whirinaki and Bay View Priority Units.

Relevant to the Te Awanga, Haumoana and Clifton Priority Units.

<sup>127</sup> Relevant to the Whirinaki, Bay View, Westshore and Pandora Priority Units.

<sup>128</sup> Relevant to all Priority Units.

<sup>129</sup> Relevant to the Whirinaki Priority Unit.

<sup>190</sup> Relevant to the Pandora and Westshore Priority Units.

Mitchell Daysh Limited, 2020. Clifton to Tangolo Coastal Hazard Strategy 2120, Stage 4 Regulatory and Policy Review.

determination has been made, resource consent applicants are still required to notify and consult with any group that has applied for a customary marine title.

Once a determination is made the approval of the customary marine title and/or protected customary rights group must be obtained.

It is important to note as background that the three main iwi groups within the Strategy area, Heretaunga Tamatea Settlement Trust (previously He Toa Takitini), Mana Ahuriri Trust (previously Mana Ahuriri Incorporated) and the Maungaharuru-Tangitū Trust, appointed representatives who were part of the Assessment Panels who developed the adaptation pathways as part of Stage 3 of the Strategy. Wider iwi members were also involved in a focused multi criteria decision-making analysis process relating to Maori values which was brought to the Northern and Southern Assessment Panels as part of recommending the preferred pathways. These iwi groups also ratified the adaptation pathways as part of their governance role within the Joint Committee. The proposed adaptation pathways identified for each of the Priority Units are therefore informed through this process.

As work further evolves as part of Stage 4 of the Strategy, including any potential policy changes and the advancement of consenting processes, advice should be sought directly from relevant iwi groups (with support from Council iwi liaison advisors) around the additional engagement required as these processes move forward.

### 5.4 RESERVES ACT 1977

A number of the priority units contain reserves that will be subject to future coastal adaptation works. This includes:

Napier City Council Reserves: Westshore Beach Reserve (Recreation Reserve)

Humber Street Reserve (Local Purpose Recreation

Reserve)

Hastings District Council Reserves: Whirinaki Recreation Reserve (Local Purpose and

Recreation Reserve)

Haumoana (Clive Grange) Domain (Recreation

Reserve)

Te Awanga Domain (Recreation Reserve)

Clifton Domain (Recreation Reserve)

There may also be other reserves present that are held by the Department of Conservation and Land Information New Zealand. For example, part of the Ahuriri Estuary (relevant to the Pandora Priority Unit) is contained within the Ahuriri Estuary Conservation

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Area under the Conservation Act 1987 and the Ahuriri Wildlife Refuge under the Wildlife Act 1953.

The Reserves Act 977 has been considered in detail in the companion policy and regulatory review report prepared by Mitchell Daysh Limited. 32 In summary however, all of the reserves within the Priority Units have either been Gazetted for Recreation or Local Purpose Reserve purposes. Further investigation will be required to determine whether the proposed adaptation pathways are in keeping with the purpose of these reserves or the ambit of activities that are anticipated within them, and/or whether specific authorisations will be required.

#### HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014 5.5

A number of heritage and cultural sites are located within or nearby the priority units. Many of the units also carry significant cultural value. As noted in detail in the companion policy and regulatory review report prepared by Mitchell Daysh Limited, 133 if any of the proposed works are located within known heritage areas or it would be reasonable to assume that some historic artefacts may be found during the works, it would be prudent to obtain an archaeological authority prior to works commencing. Such an application would need to be prepared and submitted to Heritage New Zealand by an appropriately qualified heritage expert. Iwi consultation may also be required depending on the nature of the likely discovery. This archaeological process can create consenting risk and the tests are different to the RMA. Archaeological authorities can be appealed to the Environment Court.

#### 5.6 WESTSHORE, BAY VIEW AND WHIRINAKI CONSENTING CHALLENGES

Renourishment activities are generally anticipated at Westshore. This is evidenced by the mapping of the "Westshore Renourishment Area" and "Dredged Disposal Areas" mapped in the Regional Coastal Environment Plan. The associated planning provisions further support such activities, with up 50,000m3/year of renourishment activities provided for as a controlled activity. The Council cannot decline consent for a controlled activity but may impose conditions on the consent in respect of the matters over which control is reserved.

By comparison, over 850,000m3 of initial renourishment followed by over 100,000m3/year maintenance renourishment is proposed as part of the short-term adaptation response for Westshore. This considerably exceeds the earlier described renourishment levels anticipated in the Plan and necessitates resource consent as a discretionary activity. For

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this consent, the most significant consenting challenges will be demonstrating the effects of such large volume of sediment (including the composition of the sediment) on:

- Marine life, including benthic communities, fisheries, marine mammals and shellfish;
- The effects on Te Pania and other reefs from sediment / turbidity caused by renourishment:
- Effects on coastal water quality;
- Effects on coastal processes;
- Effects on water based recreational activities, including diving and surfing (Town Reef break); and,
- Cultural effects.

Without the above assessments it is difficult to understand the likely nature and scale of effects that could arise from the additional renourishment proposed. It would therefore be prudent for a high-level evaluation of the effects to be undertaken that can help inform what management responses may be necessary. This should also be informed by monitoring of the existing environment (including consents being exercised by the Port of Napier) to ensure that baseline data is available to monitor future renourishment activities against and if necessary, enable the development of a long term adaptative management approach to renourishment activities.

Early engagement with mana whenua would help to identify the key cultural matters that might arise. Such engagement should start in short order to ensure that local iwi can be an active participant in the shaping of the proposal and the ultimate cultural and environmental outcomes achieved.

With such significant volumes of sediment required for the renourishment activities at Westshore, a potential challenge for this consent will be identifying where such material will originate from and the effects of transporting that material to adjacent properties on the proposed trucking routes. Similarly, the sustainability of trucking such volumes may draw interest. Early consideration will therefore need to be given to potential source material and the likely trucking routes proposed which have the least effect on adjacent landowners and the roading network more widely. While a separate consenting issue, there also be challenges identifying quarry or gravel extraction sites with sufficient capacity to source such volumes of material.

The type of sediment is also likely to draw interest, with recent social impact assessments undertaken as part of the Strategy indicating that the community would like to see Westshore beach return to the former sandy beach.

Due to the smaller volumes of material involved, renourishment at Bay View and Whirinaki will likely require resource consent as a restricted discretionary activity. The matters of

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discretion are reasonably confined and will require that the resource consent application address the following matters:

- The material characteristics, toxicity, contaminant levels, quantity, area, location and timing of deposition;
- Coastal water quality;
- Effects on other uses, and navigation;
- Effects on marine life (including benthic communities);
- Effects on wave action and sediment supply.

With appropriate iwi support and management of effects, we do not foresee the consenting of renourishment offshore of these two sites to be an insurmountable challenge. Furthermore, the NZCPS generally encourages natural protection measures.

#### 5.7 PANDORA CONSENTING CHALLENGES

Pandora is located in a complex environment. It is surrounded by a range of land use activities, from heavy industrial and business through to active and passive recreation. It is also an area that holds significance ecological value and is of cultural significance to Maori. When implementing the short-term adaptation responses for this area, these different values and priorities must be factored into decision-making.

The Ahuriri Estuary holds many significant values. It is a mapped "Significant Conservation Area" and is home to both critically endangered and native species. As noted with respect to the NZCPS (section 5.2), there are clear environmental bottom lines that must be adhered to with respect to indigenous biodiversity. If these cannot be met, the avoidance directives of the NZCPS prevail and the activity cannot proceed.

The proposed inundation protection structures within the Pandora Priority Unit are located on the outer edge of the Ahuriri Estuary. Minimising the extent to which any of the structures extend into the estuary will serve to minimise potential adverse effects on these sensitive environments and potential consideration of the avoidance provisions within the NZCPS. Furthermore, baseline investigations into the actual indigenous flora and fauna present in the location of the proposed structures (and any associated construction footprint) will help to inform whether alternative routes are required for the structures in order to avoid sensitive environments, if present. Baseline investigations will also be necessary to understand whether species sensitive to potential construction effects (i.e. noise and vibration) are present and whether these are likely to be significantly affected.

Another potentially significant consenting challenge for the inundation structures is the extent to which the structures are considered to "impound" the estuary. Under Rule 128 of the Hawke's Bay Regional Coastal Environment Plan, the following activity is prohibited:

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The erection or placement, alteration or extension of a structure (excluding a structure for the purposes of enhancing biodiversity) in the coastal marine area that would impound or effectively contain the coastal marine area in any of the following Significant Conservation Areas:

- 1 ....
- 4. the Ahuriri Estuary (SCA12). 134

The Regional Coastal Environment Plan defines mean high-water spring as the landward boundary of a significant conservation area. In a few discrete locations, the proposed structures extend partially into the mapped Significant Conservation Area. Whether these individual encroachments are considered to "impound or effectively contain" the coastal marine area is a matter of interpretation that should be confirmed through legal advice. This would likely require further technical information about the design in order to be definitive. If however, it is found that the structures are captured by this rule, then other options include identifying an alternative route/design or a plan change will need to be undertaken to amend the rule insofar as it relates to the provision of the proposed inundation structures. Limiting the plan change to the provision of the specific inundation structures identified in the Strategy would reduce the scope of effects, provide for a narrow range of built form outcomes and would avoid perverse outcomes for the wider estuary should broader amendments be made to the rule that could impact on the wider estuary.

From a policy standpoint, the objectives and policies within the Regional Coastal Environment Plan and the City of Napier District Plan lack the directive "avoidance" language of the NZCPS. A proposal is therefore less likely to be declined on the basis of a single strongly worded objective or policy compared with the situation under the NZCPS. A more balanced evaluation of those Plans' objectives and policies, along with the assessment of effects can be undertaken. From a review of the relevant objectives and policies and the information we have obtained around the key values of the area, the following are likely to be key features during the consent process:

Cultural values – this area is of significant cultural value to mana whenua. Representatives of the three main iwi groups within the Strategy area, He Toa Takitini, Mana Ahuriri Incorporated and the Maungaharuru-Tangitū Trust had a governance role as part of the Joint Committee and other individuals were appointed to the Assessment Panels as part of Stage 3. As work further evolves as part of Stage 4 of the Strategy, including any potential policy changes and the advancement of consenting processes, further advice should be sought directly from relevant iwi



Note the language used in this rule is a legacy of the 1994 NZCPS's description of Restricted Coastal Activities. The 2010 NZCPS does no identify such activities.

- groups (with support from Council iwi liaison advisors) around the additional engagement required as these processes move forward.
- Public Access there is a general focus within the plans around the continued provision of public access to the coast. When designing the inundation structures, consideration should be given to how ongoing access will be provided to the coast for the recreational uses that frequent this area. For example, how will water based recreation users (i.e. kayaker, boaties, paddleboarders and swimmers) continue to access the area? Will recreational fishing opportunities be lost and how can those effects be offset or mitigated? Will recreational walkers/runners/cyclists be able to continue to access the track and trails in this area? These are matters should be considered and where practicable, integrated into the detailed design.
- Amenity given the range of recreational users and the encouragement of ongoing public access, consideration needs to be given to the amenity and visual appearance of the inundation structures. While the functional requirements of the structures will limit the extent to which such matters can be addressed, it is important to consider opportunities to improve the outlook at amenity of these features where practicable to do. A long-term view should be taken when considering this matter, as gradual increases to the height of the structures over time could result in large "walls" being developed with adverse amenity outcomes.
- Ecological effects as a significant conservation area, the effects of the adaptation response on the ecological values of the Ahuriri Estuary are likely to draw particular attention. An assessment will be required to identify what the nature and scale of these effects are and whether the effects are likely to be transitory or permanent in nature. The extent to which this may or may not be determinative depends on what the baseline investigations identify within these areas.
- NCC has recently developed the "Ahuriri Estuary and Coastal Edge Master Plan". This plan seeks to enhance the overall quality and character of the estuary and in some places, allow the estuary to recolonise and reclaim areas of land. While the provision of hard protection structures runs counter to some elements of the master plan, integrating ecological restoration and recreational access to the coast will support other areas of the Master Plan vision.
- The Pandora unit covers a wide area. Consideration should be given to staging construction to ensure that large areas of the coast are not blocked from public access for long periods of time. Similarly, staging will allow for transportation effects to be localised rather than impacting on the wider network.
- Positive effects the proposed hard protection structures will likely have a positive contribute towards social and economic wellbeing of the community, including health and safety. If possible, it would be beneficial to quantify these benefits and the costs of not implementing these measures.

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Should the storm surge barrier be pursued, some of the same issues will arise, however more notably, consideration will need to be given to boat access to the harbour. In this regard, it is anticipated that boat users will be particularly interested around the operational processes of the barrier, under what circumstances is it used, how long will it be in place for etc.

### 5.8 HAUMOANA AND TE AWANGA CONSENTING CHALLENGES

The Haumoana and Te Awanga Priority Units are located between the Tukituki and Maraetotara Rivers. Apart from an existing groyne near the Tukituki River mouth and approximately 18 properties on the eastern side of Clifton Road (referred to in the Strategy as "Haumoana 18"), the foreshore is reasonably natural and free from physical impediment.

As discussed in the companion report with respect to the NZCPS, there are clear environmental bottom lines that must be adhered to with respect to natural character, natural features and natural landscapes. While Haumoana and Te Awanga area has not been identified in in the Hastings District Plan as exhibiting any outstanding natural values, it may hold lesser values where significant adverse effects must be avoided. A refine d assessment of the values of this area will therefore be required to determine whether the proposed groyne fields and gravel barriers are likely to have significant effects on these values and whether amendments may be required to the engineering concept designs to ensure a pathway is available through the NZCPS framework.

From a policy standpoint, the overall objectives and policies within the Hawke's Bay Regional Coastal Environment Plan and the Hastings District Plan generally lack the directive language of the NZCPS. A proposal is therefore less likely to be declined on the basis of a single strongly worded "avoidance" objective or policy, compared to the situation under the NZCPS. A more balanced evaluation of those Plans' objectives and policies, along with the assessment of effects can be undertaken. From a review of the relevant objectives and policies and the information we have obtained around the key values of the area, the following are likely to be key features during the consent process:

Amenity – the form and scale of the structures are such that they will alter the visual amenity of the coastline. Due to the functional requirements of groyne fields, it is anticipated that there will be limited ability to effectively mitigate this effect. Unlike Clifton or Pandora, there are no existing built form structures that will soften or buffer this outlook. Notwithstanding, there may be some opportunities for minor design changes (particularly around the footings) to mitigate adverse visual amenity effects.



Mitchell Daysh Limited, 2020. Hawke's Bay Regional Council Stage 4 Regulatory Review: Clifton to Tangolo Coastal Hazard Strategy 2120.

- Cultural values the entire shoreline is of significant value to mana whenua. While representatives of the three main iwi groups within the Strategy area, He Toa Takitini, Mana Ahuriri Incorporated and the Maungaharuru-Tangitū Trust were appointed to the Assessment Panels who developed the adaptation pathways as part of Stage 3, as work further evolves as part of Stage 4 of the Strategy, including any potential policy changes and the advancement of consenting processes, advice should be sought directly from relevant iwi groups (with support from Council iwi liaison advisors) around the additional engagement required as these processes move forward.
- Ecological effects there is potential for the proposed renourishment activities to have adverse effects of the offshore marine ecology, particularly benthic communities. An assessment will be required to identify what the nature and scale of these effects are and whether the effects are likely to be transitory or permanent in nature. The extent to which this may or may not be determinative depends on what the baseline investigations identify within the disposal areas. Similarly, the proposed new gravel barriers will effectively impound the small estuarine areas located at the Haumoana end of the site. The effects on this on any flora and fauna require further investigation.
- Positive effects the proposed hard protection structures will likely have a positive contribute towards social and economic wellbeing of the community, including health and safety. If possible, it would be beneficial to quantify these benefits and the costs of not implementing these measures.

#### 5.9 CLIFTON CONSENTING CHALLENGES

Given the presence of an existing seawall at Clifton, it is not anticipated that the proposed extension of this wall will face the same consenting challenges as establishing entirely new coastal protection structures at Haumoana and Te Awanga. It should be noted that while the key relevant policy frameworks do not provide any lenience towards seawall extensions as opposed to new sea walls, the existing environment already contains a seawall so the starting point for future environmental effects assessment is different.

The proximity of the sea wall to the adjacent outstanding natural and ecological area of Cape Kidnappers will need to be taken into consideration during consenting and any effects appropriately managed. Given that resource consent has recently been obtained to construct the coastal wall, it is anticipated that any adverse effects will be able to be appropriately managed.

The cultural and archaeological significance of the site was also a matter that was prevalent during the consenting and construction of the original sea wall. It is anticipated that similar archaeological artefacts may be found as part of this work. It would therefore be prudent to liaise with the mana whenua of the area and Heritage New Zealand to obtain an archaeological authority prior to works commencing. Not only will this clearly address the historic and cultural heritage effects associated with the proposed seawall

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extension, it also will also avoid unnecessary delays should any artefacts be "accidentally discovered".

#### COMMUNITY ENGAGEMENT 5.10

The Local Government Act 2002 describes the principles of consultation. Most notably for this proposal is the principle that information regarding proposal(s) will need to be reasonably accessible and in a manner and format appropriate to meet the preferences and needs of the people being consulted. This information should preferably be provided before consultation sessions commence, but it could be provided at the same time if there is a subsequent period of time provided for consideration of that material and the provision of feedback and comments. How this information is "bundled" and provided to the community (i.e. via internet, hard copies, newsletters, posters etc) will therefore need further careful consideration and thought.

While it is acknowledged that a community led decision making process was undertaken to identify the adaptation responses for each priority unit, this process was undertaken by representatives of community and not the community at large. Once the concept designs have been further developed and the likely effects of each adaptation response better understood, consultation with the wider community should be undertaken. This could include, for example, community drop days at each priority unit, information leaflets, updates to the HBCoast website, etc. We understand a Communications Plan has been developed for Stage 4 of the Strategy project. This type of approach should be ongoing through into the implementation stages of the Strategy.

Despite there being no statutory obligation under the RMA to consult with key stakeholders and/or the community, it is not advisable to adopt that approach, and there are a number of benefits to be gained by doing so:

- Consultation gives people a voice in the process and can reduce the amount of subsequent litigation;
- consultation can reveal issues or information that the proponent may not be aware of or may not have considered;
- consultation can provide inputs that will improve the proposal and potentially reduce its impact on the environment;
- consultation can strengthen relationships with tangata whenua and provide an understanding of their values and interests in the environment. Tängata whenua participation also fosters kaitiakitanga (the exercise of guardianship expressed in part through an ethic of stewardship);
- consultation can reduce concern, doubt or confusion people may have about the proposal;

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- consultation offers an opportunity to resolve concerns and reach agreement with key stakeholders and interested parties thus potentially lessening future opposition;
- consultation can initiate new relationships with the community and provide a platform for future collaboration; and,
- Well executed consultation is generally viewed favourably by decision makers.

#### CASE STUDIES 6.

To help identify the key consenting issues associated with the implementation of the shortterm adaptation responses, a number of case studies have been considered from within and beyond the region. For context, these are described in further detail in the following sections.

#### HAWKE'S BAY REGION - WHAKARIRE AVENUE BREAKWATER 6.1

NCC applied for a suite of consents 196 to authorise construction of a breakwater off Whakarire Avenue, Napier and to subsequently reclaim an area of land landward of the proposed structure to form a reserve area and recreational beach. The purpose of the structure was to replace and extend an existing seawall which was in a degraded condition to ensure that residential development off Whakarire Avenue was protected from coastal erosion.

The application was publicly notified in August 2013 and received a total of 47 submissions. Three submissions were neutral, the remaining were in opposition. The key issues identified in the submissions related to the effects of the structure on the surf break locally known as "the Reef", the effects on amenity of residents and effects on marine ecological values.

A pre-hearing meeting was held on 17 July 2014. As a result of this meeting, the applicant reconsidered the design of the structure. All the submitters subsequently withdrew their submission or no longer wished to be heard.

The key issues and effects that were considered in the application and subsequent traversed in detail during the RMA consent decision making process included:

Construction effects: specifically, traffic generation, duration, silt management, noise, dust management effects. Overall, it was found that these could be managed by way of conditions of consent.

Hawke's Bay Regional Council Consent Numbers CL130253R, CL130254M, CL130255M, CL130255M. CL130258O and cL1302589D.







- Coastal ecology and habitat loss: Due to the amended design however, it was found that there would be no loss of habitat of Rangatira Reef.
- Coastal hazards: it was found that the positive effects the breakwater will provide for the protection of Whakarire Avenue properties from coastal erosion.
- Landscape and visual effects: it was found the area was already largely modified in character and had visual capacity to accommodate further change. It was also found that while Westshore Beaches has significant value, it was not of the qualities of an outstanding natural landscape or feature.
- Natural character effects: With respect to natural character, the decision noted that "The coastal environment of the subject sit subsequently bears little, if any resemblance to its original natural character."
- Recreational effects: design amendments meant the existing surf break would not be affected by the proposal.
- Amenity effects: overall the proposal was found to strike a balance between maintaining existing amenity while providing a structural solution for natural hazard management.
- Cultural / iwi effects: the area was found to have a rich cultural history and was of significant cultural value. Pre-consultation with iwi was reported to be productive and no submissions were subsequently made by iwi.
- Public Access: the amended design was part of a longer-term project to redevelop the foreshore and provide greater public access.
- Heritage: while minor works were proposed over two heritage sites, the addition of interpretation signage and the repositioning of such structures was considered to be positive outcome.

From a policy perspective, the proposal was considered to be consistent with the relevant objectives and policies of the Regional Coastal Environment Plan. Further, the evaluation considered the guidelines under Policy 15.1 and found that in the circumstances, a donothing approach or managed retreat were not an option for this site due to the financial value of the houses located in the area. It was also considered that such options were not practicable or necessary, with the proposal resulting in the prevention of further erosion and allowing for more effective renourishment at Westshore.

With respect to the NZCPS, it was noted that the proposed structure has a design life of 50 years despite the NZCPS requiring consideration of at least a 100-year timeframe. Notwithstanding this, the design of the structure will allow for additional height if or when sea level rise exceeds 0.3m.

The decision also acknowledged that hard protection structures are not the preferred mechanism of mitigating hazards (Policy 25(e)), but that in some cases they may be necessary, particularly where they are to protect existing development and where there are no practicable alternatives.

In relation to Policy 27(1)(b) and (c), it was concluded that hard protection structures were necessary in this area due to the threat of coastal erosion and significant adverse effects this would have on existing properties in the area.

Resource consent for the proposed breakwater was granted on 27th October 2016. No party lodged an appeal in the Environment Court on that decision. NCC is yet to commence construction works. NCC is consulting with the community about how to fund the works and budget provisions in the 2020-21 Annual Plan.

It should be noted that case law with respect to the NZCPS has developed further since this consent decision. Specifically, in the *Davidson* decision, <sup>137</sup> the Court of Appeal held that when considering whether to grant RMA authorisations, it is not appropriate to override directive NZCPS and regional (including "avoid") policies through the (previously orthodox) balancing of positive and adverse effects of the project overall. It is possible that the same proposal might be more difficult to consent if lodged today, as this application included "reclamation" activities which the NZCPS seeks to "avoid".

## 6.2 HAWKE'S BAY REGION - CLIFTON REVETMENT

HDC applied for a resource consent 138 from both HDC and HBRC for the construction, maintenance and repair of a 400m long limestone revetment and upgrade an existing 80m long limestone revetment. Consent was also sought to construct a new access road and undertaken periodic beach renourishment.

The application was publicly notified, and ten submissions received. One submission was in opposition, one neutral and the remainder in support. The main issues raised by the opposing submitter related to:

- > the visual amenity effects of the area;
- Protecting the Clifton Reserve, Motor Camp and Marine Club which were considered by the submitter to be important recreational facilities;
- The provision of access to the Clifton Camp and visitors walking the Cape Kidnappers walk.



RJ Davidson Family Trust v Marlborough District Council (2018) NZCA 316.

Hawke's Bay Regional Council resource consent number CL170304C, CL170305D, LU170307C, CL1703080O, CL170309M, CD170310L and CL170311R.

- Cultural heritage including the protection of Maori and archaeological sites within the area; and,
- The retention of the boat ramp as an essential access to the beach and sea.

The key issues and effects that were considered in the application and subsequent traversed in detail during the RMA consent decision making process included:

- Effects on coastal processes: While it acknowledged that the revetment may "lock in" sediment that would normally be available for transportation, the effect could be managed through periodic renourishment and monitoring.
- Landscape and Amenity effect and natural character: the decision identified that the receiving environment had already been modified by man-made structures and that the proposal would further affect the natural character of the area. The landscape and visual assessment for the works identified that the works will 'return the landscape to one of opportunity, regeneration and increased amenity value'. Overall, as the area had already undergone modification, the effect on natural character was found to be acceptable.
- Ecological effects: based on the ecological assessments undertaken as part of the application, it considered that species present at the site were tolerant to disturbance associated with construction. Given the quality of the pebble/gravel environment, it was considered that the revetment was unlikely to constitute a significant loss of coastal diversity or deterioration of the local coastal ecology.
- Historic significance and Maori cultural values: the existing access road to Clifton traverses through a recorded archaeological site (W21/176). A further six recorded sites were also identified within 800m of the proposed works (pā site W21/15 (ca. 130 m); pit site W21/14 (ca. 215m); open settlement W21/17 (ca. 320 m); pā W21/4 (ca. 540 m) pā W21/165 (ca. 770m); historic settlement W21/21 (ca. 820 m)). It was considered that the effects on these areas could be managed by appropriate archaeological conditions of consent.
- Open Space and Rural Zone Effects: it was found that the proposed revetment and road would not impact on the ability of the surrounding land use zone (Rural) to be used for productive purposes. Furthermore, the works would enable the continued access sand use of the coastline by the local community for recreation purposes.
- The proposal was found to meet the relevant Regional Coastal Environment Plan and NZCPS provisions such that they were not considered an impediment to the consent was subsequently granted on 4<sup>th</sup> July 2018. No party lodged an appeal in the Environment Court on that decision.

The following commentary from the decision with respect to the Clifton to Tangoio Strategy should be noted:

"...It was noted by Mr O'Shaughnessy that the [Clifton to Tangoio Coastal Hazards Management] strategy had yet to be fully consulted on through local government processes but that construction of the proposed revetment in the short-term, with a longer term managed retreat approach, was appropriate from the applicant's perspective. This approach was supported by a number of submissions and most submitters who appeared at the hearing. Given that the strategy had not been through a public consultation process I can give little weight to it, but it does provide useful background regarding coastal hazard management approaches being considered in the District and wider area."

The implications of this finding are considered further in the companion policy and regulatory review report prepared by Mitchell Daysh Limited. 139

### 6.3 GISBORNE REGION – EROSION PROTECTION WORKS

The Gisborne District Council sought resource consent<sup>40</sup> for coastal erosion protection works at Wainui Beach. This included a proposed rock revetment wall to replace part of an existing wall at Tuahine Crescent and to retain the gabion basket works at 21 Wairere Road, which were constructed under the emergency works provisions of the RMA.

The application was publicly notified and a total of 41 submissions received. The key issues identified by opposing submitters included:

- Natural character and landscape values being adversely affected;
- Potential impacts (end effects) of any new revetment on properties to the north of the structure:
- Potential adverse effects on public access to and along the beach;
- > Loss of amenity and recreational use of the beach;
- That the proposal is not supported by the statutory planning documents which seek to discourage hard engineering solutions to coastal hazards management;
- That long terms solutions such as 'managed or progressive retreat' need to be more seriously considered;
- Precedent effect and expectations of hard engineering as a solution if consent were granted;



Mitchell Daysh Limited, 2020. Clifton to Tangolo Coastal Hazard Strategy 2120, Stage 4 Regulatory and Policy Review.

Gisborne District Council Application Number LU-2017-107788-00, LL-2017-107789-00, CC-2017-07790-00, CO-2017-107791-00.

Costs of any revetment walls should be bome by private users/benefactors.

Those submissions supporting the proposal included reasons such as:

- The need to protect the properties at 2 to 8 Tuahine Crescent;
- > The existing rail irons are dangerous and need to be removed; and,
- The rock revetment wall will achieve appropriate mitigation and will also address existing issues with sand depletion at this end of the beach.

The NZCPS and the extent to which the proposal was consistent with Policies 25 and 27 was key focus of the hearing and the subsequent decision.

With respect to the NZCPS, the commissioner found that the Tairāwhiti Plan provisions were, in some instances, inconsistent with or incomplete when considered against the NZCPS. The Tairāwhiti Plan provisions were also found to be less directive which was likely a consequence of the plan predating the 2010 NZCPS. Accordingly, the commissioner placed greater weight on the NZCPS provisions insofar as it related to natural hazards and the natural environment.

Of particular note are the following findings of the commissioner (emphasis added):

79. The NZCPS clearly discourages hard protection structures but accepts at policy 27(1)(c) that "hard protection structures may be the only practical means to protect existing infrastructure of national or regional importance". Policy 27(2) - states that evaluating options under (1): to ensure that where hard protection structures are considered necessary, that the form and location of any structures are designed to minimise adverse effects on the coastal environment. Policy 25(a) sets a high "bar" by stating "avoid increasing the risk of social, environmental and economic harm from coastal hazards".

- 80. In this case the proposed revetment is essential to protect private property at 2 to 8 Tuahine Crescent. While I can understand land owners wanting to have their properties protected, this form of protection is not 'supported' by the NZCPS. The NZCPS accepts that hard protection structures may be the only practical means to protect existing infrastructure of national or regional importance. This proposal is not about protecting existing infrastructure of national or regional importance.
- 81. The applicant has advanced the revetment as a <u>short to medium term 'fix' while</u> the council and community devise a longer term sustainable strategy in relation to the existing development (and future development) at Wainul Beach. Mr Daykin acknowledged this at the hearing saying it was to "buy some time" to develop a longer term approach recognising that the Tuahine Crescent dwellings were in the Extreme Coastal Hazards Risk Area. However I note from Mr Daykin's opening statement that 28 properties are identified within the 'Extreme Risk Area' coastal hazard zone i.e. they are potentially at risk from erosion resulting from storms23.
- 82. A 25 year consent term for the CMA component of the revetment was sought. Given that the maximum consent period that can be granted under the RMA is 35 years; 25 years cannot be seen as 'temporary' or 'short to medium term'.

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86. While I accept it is prudent to plan into the future, and this is supported by the NZCPS (Policy 25 envisages a 100 year time period), in this context it appears to 'cement in' a long term hard protection approach to coastal erosion.

92. Policy 27(4) states that "Hard protection structures, where considered necessary to protect private assets, should not be located on public land if there is no significant public or environmental benefit in doing so". It is acknowledged that majority of the proposed revetment will be on privately owned land. However a part of revetment will be on public land, and given the purpose of the revetment, I find that there is no significant public or environmental benefit to that land or the public.

93. It is my findings for the reasons set out above the proposal would be inconsistent with the natural hazards provisions of the NZCPS, and the natural character provisions to the extent they relate to coastal processes (noting that policy 13 (2) - Preservation of natural character - sets out that natural character includes matters such as "natural elements, processes and patterns" and the natural movement of water and sediment).

...

120. I have addressed the provisions sections 104 and Part 2 of the RMA. It is my finding that the rock revetment is, overall, inconsistent with the natural hazards and related natural character provisions of the NZCPS, which discourages hard protection structures unless it is only practical means to protect existing infrastructure of national or regional importance. The proposal is in part inconsistent with the Tairāwhiti Plan provisions. The reasons for this have been set out above, noting that I have placed greater weight on the provisions of the NZCPS.

121. Moreover it has not been demonstrated that the adverse coastal process effects, particularly "end effects" have been avoided (or remedied or mitigated) given the NZCPS policy 25 direction to avoid increasing the risk of social, environmental and economic harm from coastal hazards.

Resource consent for the rock revetment was subsequently refused on the 25th February 2018. No party lodged an appeal in the Environment Court on that decision.

## 7. CONCLUSIONS

The key consenting challenges likely to arise for each priority unit is identified in detail in section 5.

Further work is required for each priority unit to understand the nature and scale of effects likely to arise as a result of the implementation of each short-term priority unit adaptation response. It is not until this work is completed that it can be established whether the NZCPS is likely to cause insurmountable consenting challenges. However, given the strict interpretation of avoid policies in recent case law, in particular, the NZCPS as currently formulated creates a highly challenging policy context for many applications relation to the coastal marine area, and can preclude the ability to obtain consents.

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With respect to lower order regional and district plans, the provisions contained within these documents are generally broadly drafted. Provided the granular assessments of effects associated with each site do not identify significant adverse effects, from a policy standpoint, it is likely that the adaptation responses will be able to find a pathway through the regional and district planning documents. Ahuriri Estuary is the exception to this however, with the impoundment of the Significant Ecological Area potentially being a prohibited activity under the Regional Coastal Environment Plan. It is recommended a legal opinion is sought to confirm the interpretation of this rule and whether the proposed inundation protection structures would comprise "impoundment" and thus attract a prohibited activity status.

In addition to the future provision of technical environmental assessments which will ultimately identify the nature and scale of any adverse effects and whether those effects can be appropriately avoided, remedied or mitigated, the following actions are recommended to be undertaken to help inform and shape the detailed designs of the adaption responses for each unit:

- Undertake an evaluation of the indigenous biodiversity value, natural character or natural features present in order to confirm that a pathway is available through the "avoidance" policy framework of the NZCPS. Based on mapping contained in the Hastings District Plan and the discussion documents released as part of City of Napier District Plan review, it does not appear that any of the units exhibit "outstanding"
- Undertake baseline investigations, particularly in areas where offshore renourishment is proposed to provide a basis against which future environment effects can be assessed. Should include investigations around water quality and ecology.
- Commence further project specific engagement with mana whenua. Ongoing collaboration and engagement with mana whenua will be critical to the success of the adaptation responses. While Strategy evaluation panels included mana whenua representatives and the post Treaty settlement groups approved the Priority Area pathways as part of the Joint Committee approval, it is important to re-engage with mana whenua with interests in this area. This is particularly important given the evolving nature of the MACA applications in the Strategy area.
- For the most part, the proposed works do not appear to completely hinder the use of existing reserves for their original purpose. It would be prudent to develop a specific reserves strategy and work through this with the relevant Councils the Department of Conservation and, and if necessary, seek approval for the works under the relevant Reserves Act, reserve management plans or bylaws. Where proposed works are incompatible with the purpose of a particular reserve, it may be necessary to consider seeking to amend or revoke the Reserve Act status to enable such works to proceed, but that can be covered in the reserves strategy.

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- Consideration should be given to future sediment sources for the proposed renourishment activities and the associated transportation routes to identify whether there are any issues or effects.
- A legal opinion should be obtained regarding the extent to which the proposed inundation structures at Pandora are considered to "impound" the ecologically significant Ahuriri Estuary to ensure such structures are not prohibited.
- A community engagement plan should be developed to guide community consultation around the detailed options being considered and the associated effects. Feedback from this process will help shape and form the management of effects arising from each adaptation response.

Once the above workstreams are underway, it will quickly become apparent which Priority Units can advance through the consent phase, which ones are likely to require further work before consenting can advance. It may also be that hazard events means that priority is given to some units over others, due to a more pressing or immediate need to respond to a coastal hazard event.

In the short term, it would be prudent to understand the likely timeframes for any future regional or district plan review processes to determine whether there is an opportunity to integrate the Strategy into these reviews and potentially simplify the consenting framework for each Priority Unit (refer to the companion report for further details on this matter). This may create a more favourable consenting framework for the various adaptation which, for the most part, are currently non-complying activities. With respect to Pandora, it may be a plan change is required in order to be able to even contemplate the installation of a seawall in this location.

In terms of the packaging the resource consent applications under the RMA, there are a number of options to consider. For example, should the consents be bundled together in one "package" of consents for all Priority Units, bundled together based on like adaptation responses across various locations (for example, renourishment at Westshore, Bayview and Whirinaki or the renourishment and groyne features at Haumoana and Te Awanga), or should consent be sought separately for each adaptation response within each Priority Unit. It is anticipated that the consenting strategy applied will ultimately depend on whether some Priority Units require implementation of adaptation responses sooner than others, how quickly workstreams can advance, and the risks of consenting the works collectively.

For a project of this nature where the adaptation responses have been informed by a holistic coastal management strategy from Clifton to Tangoio, there would be merit trying to maintain the "holistic view" through the consenting phase of the works. In an "ideal" situation (and if the risks of doing were manageable), consideration could be given to filing separate resource consents for all adaptation responses concurrently. By taking this

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approach, a holistic view can be maintained by the decision maker and the community as the wider package of consent documents is available for their consideration and review, however each Priority Unit can be assessed individually and on its merits. Applying this approach would also allow, if necessary, for some Priority Units to be advanced or slowed mid-way through the process in response to changing circumstances, for example, growing community concern or support, changing environmental conditions (i.e. a coastal hazard event) or changes in legislation.

It would be prudent to develop a detailed consenting strategy and risk evaluation at the completion of the workstreams identified in this report to determine the most effective and efficient pathway forward for each Priority Unit.