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GLEN ISLA PROTECTION SOCIETY

**GLEN ISLA DUNE – WAIHI  
BEACH - COASTAL PROTECTION  
PROJECT**

Bay of Plenty Regional Council -  
Resource Consent Application and  
Assessment of Environmental Effects

11 October 2024

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## REPORT INFORMATION

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<b>Report Status</b>	FINAL
<b>Our Reference</b>	MDL002583
<b>Author</b>	Ellen Robotham
<b>Review By</b>	Luke Faithfull
<b>Version Date</b>	11 October 2024

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## **PART A**

Resource Consent Application

FORM 9

**APPLICATION FOR RESOURCE CONSENT**

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Sections 88 and 145, Resource Management Act 1991

**To: Bay of Plenty Regional Council**

**1. Glen Isla Protection Society (“GIPS”) apply for the following type(s) of resource consent:**

- > Coastal Permit, as a discretionary activity, in accordance with section 12(1) of the Resource Management Act 1991; and
- > Land Use Consent, as a discretionary activity, in accordance with section 9(2) of the Resource Management Act 1991.

**2. The activity to which the application relates (the proposed activity) is as follows:**

- > Disturbance of the foreshore by vehicle use in the Coastal Marine Area;
- > Earthworks in the Erosion Hazard Area and Sand Dune Country within 50m of the Coastal Marine Area; and
- > Land and soil disturbance by vegetation clearance in Sand Dune Country and Erosion Hazard Area.

**3. The site at which the proposed activity is to occur is as follows:**

Recreational Reserve and Esplanade Reserve land at Waihi Beach comprising part of the reserve commonly referred to as Three Mile Creek Reserve and legally described as Lot 18 DPS 22035 and Lot 19 DPS 22035.

The site is adjacent to 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place, Waihi Beach, and immediately south of Three Mile Creek. The site is described further in the attached Assessment of Environmental Effects.

Copies of the Records of Title for the site is attached as **Appendix A** to the Assessment of Environmental Effects.



**4. The full name and address of each owner or occupier (other than the applicant) of the site to which the application relates are as follows:**

Western Bay of Plenty District Council,  
1484 Cameron Road,  
Greerton,  
Tauranga 3112

**5. The other activities that are part of the proposal to which the application relates are as follows:**

Discharge of stormwater to land soakage, which is proposed to comply with the relevant permitted conditions of rule DW R22 of the Bay of Plenty Regional Natural Resources Plan, as described in the attached Assessment of Environmental Effects.

**6. The following additional resource consents are needed for the proposal to which this application relates and have been applied for:**

Land use consent from the Western Bay of Plenty District Council for:

- > Establishment of a coastal protection structure and associated earthworks in the Coastal Erosion Area – Primary Risk and Coastal Erosion Area - Rural; and
- > Structures, earthworks and clearance of native vegetation within Natural Feature/Landscape – S24 – Open Coastal landscape Landward Edge Protection Yard.

Resource consent for these activities has been sought under a separate application.

**7. I attach an assessment of the proposed activity's effect on the environment that—**

- (a) Includes the information required by clause 6 of Schedule 4 of the Resource Management Act 1991; and
- (a) Addresses the matters specified in clause 7 of Schedule 4 of the Resource Management Act 1991; and
- (b) Includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

**8. I attach an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.**

**9. I attach an assessment of the proposed activity against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including the information required by clause 2(2) of Schedule 4 of that Act.**





**10. I attach the following further information required to be included in this application by the district plan, the regional plan, the Resource Management Act 1991, or any regulations made under that Act:**

- > Records of Title
- > Coastal Process Assessment (Davis Coastal Consultants)
- > Landscape and Visual Effects Assessment (Isthmus Group)
- > Ecological Effects Assessment (BlueGreen Ecology)
- > Memorandum – Location of Mean Highwater Springs, Glen Isla Place, Waihi Beach (Davis Coastal Consultants)
- > Engineering Design Report (Davis Coastal Consultants)
- > Glen Isla Place Tree Protection Plan (Arbor Care Ltd)
- > Construction Methodology (Davis Coastal Consultants)
- > Noise Trial Report (Marshall Day Acoustics)

**Date: 11 October 2024**

**Signature:**



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**Contact person:** Luke Faithfull





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## **PART B**

Assessment of Environmental Effects

## 1. INTRODUCTION

The Glen Isla Protection Society Incorporated (“**GIPS**” or “**the Applicant**”) comprise a group of beachfront homeowners at 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place, Waihi Beach. Their properties, located immediately south of “Three Mile Creek”, adjoin an approximately 200m stretch of unarmoured coastline which is part of the Three Mile Creek Reserve and owned by the Western Bay of Plenty District Council (“**WBOPDC**”).

Following a series of recent large erosion events, including Cyclone Gabrielle, GIPS proposes to establish a buried revetment structure (“**the structure**”), supplemented with dune reshaping and replanting at Three Mile Creek Reserve on land legally described as Lot 18 DPS 22035 and Lot 19 DPS 22035. The intent is to protect the Reserve land and adjacent properties from further erosion, and future-proof the properties from the effects of sea-level rise.

This Assessment of Environmental Effects (“**AEE**”) supports a resource consent application to the Bay of Plenty Regional Council (“**BOPRC**”) to undertake earthworks and vegetation removal outside the Coastal Marine Area (“**CMA**”) as a **discretionary activity** under the Bay of Plenty Natural Resources Plan (“**Regional Plan**”); and to provide for the temporary use of vehicles in the CMA as a **discretionary activity** under the Bay of Plenty Regional Coastal Environment Plan (“**Coastal Plan**”).

This AEE is supported by the following information and technical assessments:

- > Records of Title
- > Coastal Process Assessment (Davis Coastal Consultants)
- > Landscape and Visual Effects Assessment (Isthmus Group)
- > Ecological Effects Assessment (BlueGreen Ecology)
- > Memorandum – Location of Mean Highwater Springs, Glen Isla Place, Waihi Beach (Davis Coastal Consultants)
- > Engineering Design Report (Davis Coastal Consultants)
- > Glen Isla Place Tree Protection Plan (Arbor Care Ltd)
- > Construction Methodology (Davis Coastal Consultants)
- > Noise Trial Report (Marshall Day Acoustics)

An application for the necessary land use resource consents from WBOPDC has been made separately to this application.

## 2. BACKGROUND

Waihi Beach is a coastal township located on the east coast of the North Island at the northern extent of the Bay of Plenty Region. It is an approximately 10km long, open-coast barrier beach orientated north-east, with a long history of coastal erosion and protection / mitigation activities.

The Coastal Processes Assessment (**Appendix B**) provides a detailed review of historic beach changes at the site, and the below summarises the various coastal erosion mitigations that have been adopted along Waihi Beach, particularly the coast fronting 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place.<sup>1</sup>

Following severe storm events in the late 1950s, the former Ohinemuri County Council put coastal erosion protection measures (primarily hard protection structures) in place along Waihi Beach in response to beachfront residents' concerns. This response continued over the following 30 years.

In 1983, a seawall was constructed south of Three Mile Creek, approximately 20m seaward of the boundary of the Glen Isla Place properties which border the coast. This seawall was essentially an extension of the various sections of sea walls that had been built over the preceding decades to the north of Three Mile Creek.

Between 1993-2008, WBOPDC investigated and sought consent to undertake protection works to replace existing sea walls and ad hoc protection at Waihi Beach. Construction of the scheme began in 2009/2010. A permanent revetment, which was to be located 5 metres off the private property boundaries, was originally investigated for the Glen Isla dunes. This proposal was substituted with a soft protection method involving enhanced sand dunes and planting of dune vegetation, which was subsequently constructed in 2011. Remnants of the historic seawall were also removed at this time.

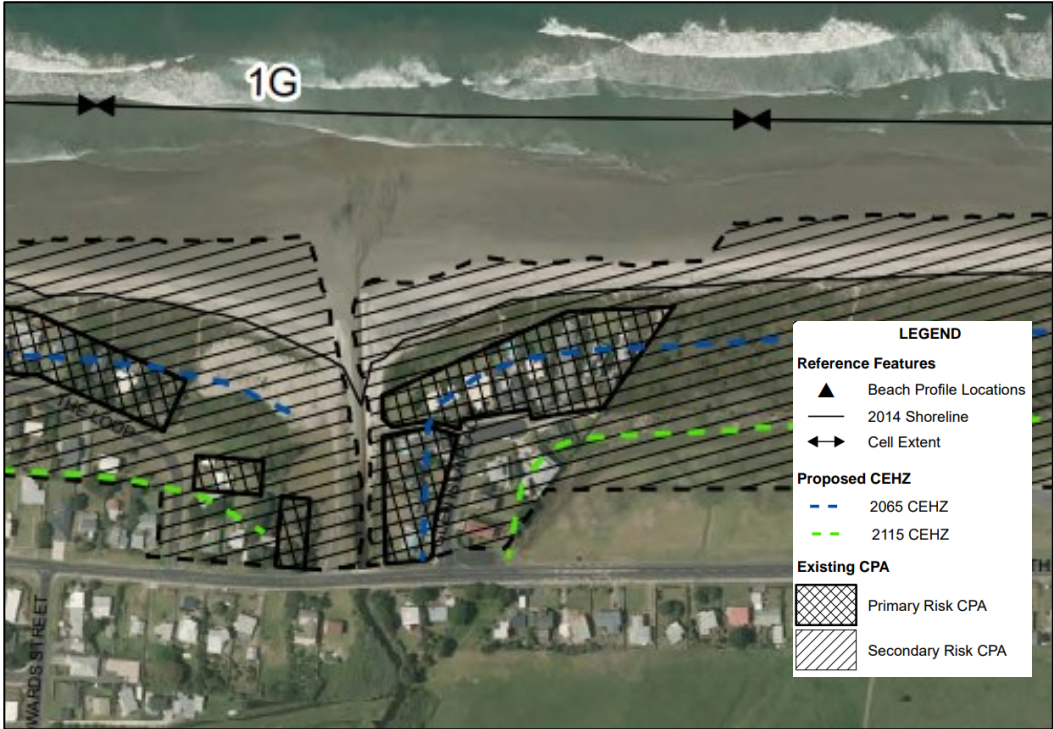
The soft protection dune enhancement was entirely washed away by a severe storm within a few weeks of being finished. No erosion protection or care initiatives have been put in place since 2011.

Tonkin & Taylor Ltd provided a review of Primary and Secondary Risk Coastal Protection Areas (“CPA”) in 2015. Two planning timeframes were applied to identify the coastal hazard extent at sufficient time scales for planning and accommodating future development, being

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<sup>1</sup> The summary of coastal erosion mitigations relies on C. Dullnig, 'Waihi Beach Coastal Protection Consequence of 1930's Stormwater Control Measures', 2016, other publicly available documents, and observations of GIPS members.

2065 (50 years) and 2115 (100 years). Maps attached to the reassessment report identify properties at 1, 3, 5, 7, 9, 11-12 Glen Isla Place as “Primary Risk CPA” (shown as double hatch in **Figure 1**), and the wider coastal area as “Secondary Risk CPA” (shown as single hatch in **Figure 1**).



**Figure 1: Map from 2015 Tonkin & Taylor Report**

Significant further erosion of the remaining dune area occurred during Cyclones Hale and Gabrielle in early 2023 which resulted in the loss of up to 3 metres, in horizontal dune width.

While some indigenous vegetation has regenerated in the northern half of the Glen Isla dunes, southern parts of the Glen Isla dune have not naturally recovered, and are now approximately 5 meters wide, a loss of up to 15 metres from the position of the 1983 seawall.

In response to recent events, GIPS approached WBOPDC to explore coastal protection options for the Glen Isla dune within the Council’s Reserve land. The outcome of this is the subject of this resource consent application and a separate application to WBOPDC.

### 3. EXISTING ENVIRONMENT

#### 3.1 SITE LOCATION AND CONTEXT

Waihi Beach is a coastal township in the Western Bay of Plenty at the base of the Coromandel Peninsula, approximately 10km east of the inland town of Waihi. The settlement is well established with a mixture of traditional baches and recent beach house development. The township's layout is generally parallel to the beach, with development located close to the coastal margin for much of the central and northern beach extent.

Various ad-hoc structures and coastal protection works have been constructed over the decades to manage coastal erosion at Waihi Beach. Notably, exposed rock revetments extend along approximately 420m in front of The Loop, and approximately 500-600m in front of Shaw Road.

The profile of Waihi Beach is generally very flat, with a broad intertidal zone offering a deep open beach at low tide, and a narrow beach against the fore dune and existing coastal erosion structures at high tide.

The site is located approximately halfway along Waihi Beach within the Three Mile Creek Reserve at Waihi Beach which is classified as Local Purpose Esplanade and Recreation Reserve under the WBOPDC. The site is adjacent to nine private residential properties, being 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place, which are owned by GIPS members. The project site is legally described as Lot 18 DPS 22035 (.4130 ha) Rec Res and Lot 19 DPS 22035 (.6620 ha) LP Espl (refer **Figure 1**).<sup>2</sup>

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<sup>2</sup> These legal descriptions and areas are as described in Appendix 1 to the Katikati-Waihi Beach Ward Reserves Management Plan.



**Figure 2: Site location at Waihi Beach (Source: Coastal Processes Assessment).**

The coastline at the site is characterised by a gently sloping intertidal area that rises slowly to an unarmoured, narrow, vegetated bank. The dune slope is gentler at the northern end, where sand accumulation appears to be supported by the presence of groynes along the banks of Three Mile Creek. The southern end of the site comprises a narrow dune terrace with a steep, eroded face exemplary of the susceptibility of the frontal dune to episodic storm erosion. The Coastal Processes Assessment (**Appendix B**) provides a detailed description of the morphology and coastal processes at the site.

The GIPS properties are located landward of the narrow frontal dune, at an elevation of approximately Relative Level (“**RL**”) 4.0m. Residential dwellings on the GIPS properties are generally set at the landward edge of the property with grassed lawns on the seaward side. The dwellings are a mix of single and two-storey dwellings. Some properties have fences erected along the seaward property boundary. These built structures are easily seen at the top of the dune from the beach. The Landscape and Visual Amenity Effects Assessment (“**LVA**” at **Appendix C**) provides a more detailed description of the character of the site and broader context.

The vegetated extent of the back dune system is approximately 20m wide closest to the channel outlet and narrows to approximately 4-5m wide towards 12 and 14 Glen Isla Place. Indigenous plants are most prominent in the northern foredune (including beach bind weed, spinifex, and pingao), and in the very south (where pohuehue on the terrace and spinifex

along the erosion scarp face are notable). Knobbly club rush and pohuehue are the common native dune plants throughout, however, the great majority of the back terrace and terrace slope is covered by exotic species, many of which are considered serious weed species. A mature Norfolk Pine is located close to the boundary, on private land at 13 Glen Isla Place.

The predominant vegetation types are summarised in **Figure 3**. A fulsome description of the site’s flora and fauna is provided in the Ecology Assessment at **Appendix D**.



**Figure 3: Predominant vegetation types (Source: Ecology Assessment).**

Three Mile Creek Reserve is a ‘Neighbourhood Amenity Reserve’ and provides public access to and along Waihi Beach. From Seaforth Road, the public can access the coast via the public pedestrian accessways on the northern and southern banks of Three Mile Creek which run all the way to the open beach. From Glen Isla Place, there is a dedicated pedestrian access way between property numbers 9 and 7 that connects to the accessway along the southern bank of Three Mile Creek. The open beach provides for access along the coast. The unmanicured vegetated dune area does not provide for public access or other recreation, given it is a sensitive habitat and the public are discouraged from walking through these areas.

Public walking access from Seaforth Road and Glen Isla Place via Three Mile Creek Reserve is indicated in the figure below.





**Figure 4: Indicative location of public beach access at Three Mile Creek.**

Three Mile Creek is located immediately to the north of the site. Three Mile Creek is a man-made diversion of inland drainage channels that was dug through the dune in the early 1940's. Training walls, made of sandbag groynes, line the northern and southern banks of Three Mile Creek. Three Mile Creek is periodically dredged by WBOPDC in accordance with the relevant Reserve Management Plan. Dredging typically occurs monthly and sand is deposited immediately south of Three Mile Creek, seaward of the dunes.

Island View Reserve is located to the south of the site. The open beach is vested in Council as Esplanade Reserve, and the vegetated dune land to the south is Crown Land (owned by Department of Conservation (“DoC”)) held for conservation purposes and is a Recreation Reserve.<sup>3</sup> WBOPDC has been appointed by the Minister to control and manage the reserve.

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<sup>3</sup> As per the Katikati Waihi Beach Ward Reserves Management Plan.



**Figure 5: DoC Reserve land (orange speckle) and Council Reserve / Esplanade Reserve land (green speckle). (Source: District Plan maps).**

The following photos, taken during a site visit on 4 and 5 April 2024, are indicative of the existing environment.



**Figure 6:** Dune face looking north from 16 Glen Isla Place. The Norfolk Pine at 13 Glen Isla Place is prominent in the middle ground.



**Figure 7:** Dune face looking north from in front of 13 Glen Isla Place. Sand spoil disposal area is visible as lighter sand area.



**Figure 8:** Sand spoil disposal area from Three Mile Creek maintenance works located in front of 9 Glen Isla Place. Regenerating vegetation can be seen behind the sand disposal area.



**Figure 9:** Example of existing dune vegetation in front of 11 Glen Isla Place, looking north.





**Figure 10:** Example of existing dune vegetation in front of 15 and 16 Glen Isla Place, looking southeast.

### **3.2 PLANNING OVERLAYS**

Under the Coastal Plan (refer **Figure 11**), the reserve land is located within the Coastal Environment (delineated by the yellow line) and Indigenous Biological Diversity Area B1 – Central Waihi Beach (“**IBDA-B1**” delineated by the black hatch).



**Figure 11: Excerpt of the Coastal Plan.**

The reserve land at Glen Isla Place is within 150m of the CMA and comprises of a sand dune system with sand soils such that it falls within the definition of “Sand Dune Country” as defined in the Regional Plan:

**Sand Dune Country** – coastal dune systems with sand soils, which are characterised by low amounts of organic matter and low cohesiveness. Includes areas with Land Use Capability of VIIe and VIIIe, and Land Management Suite of LMS 3 or LMS 4. For the purposes of the rules in the Land Management section of this regional plan, it is coastal land measured horizontally from the Coastal Marine Area to either:

- (i) 150 metres landward of the Coastal Marine Area; or
- (ii) the point where land changes from sand dune country to another soil type; whichever is the lesser distance.

The reserve land also falls within the “Erosion Hazard Zone” as defined by the Regional Plan:

**Erosion Hazard Zone** – Land that has very severe to extreme erosion hazards. For the purposes of the rules in this regional plan, the Erosion Hazard Zone is:

- (a) Any Sand Dune Country; excluding sand dune country within urban areas or already developed subdivisions that are on land between 50-150 metres from the Coastal Marine Area.

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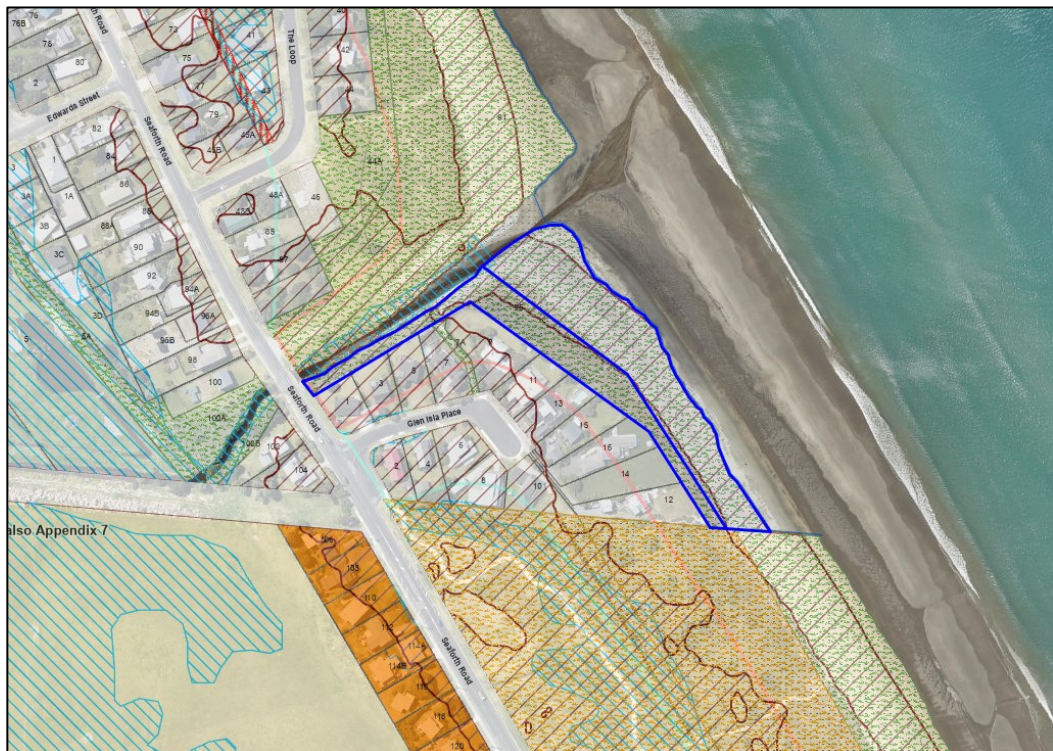
The reserve land is not within the “Coastal Margin” because it is Sand Dune Country, which is specifically excluded by the definition of “Coastal Margin” in the Regional Plan:

**Coastal Margin** – for the purposes of rules in the Land Management section of this regional plan, the Coastal Margin is the land on the edge of an estuary, harbour, or the open rocky coast, excluding Sand Dune Country, as measured horizontally from the Coastal Marine Area to 40 metres landward of the Coastal Marine Area.

For completeness, it is noted that the site is zoned Rural in the Western Bay of Plenty Operative District Plan (“**District Plan**”). The adjacent properties at 9-16 Glen Isla Place are zoned Residential.

Parts of the site are also subject to the following District Plan overlays:

- > Coastal Erosion Area – Primary Risk (delineated by the faded red line);
- > Coastal Erosion Area – Rural (land zoned rural and within 100m of Mean High Water Springs);
- > Coastal Inundation Area (delineated by the burgundy hatch area); and
- > Landscape Area: Natural Feature/Landscape – S24 – Open Coastal landscape Landward Edge protection Yard (delineated by the black dots).



**Figure 12: District Plan Zoning and Overlays**

### 3.3 COASTAL MARINE AREA

The proposed works are located within the Coastal Environment but not within the coastal marine area (“**CMA**”).

The CMA is defined by the RMA as follows:

*coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water—*

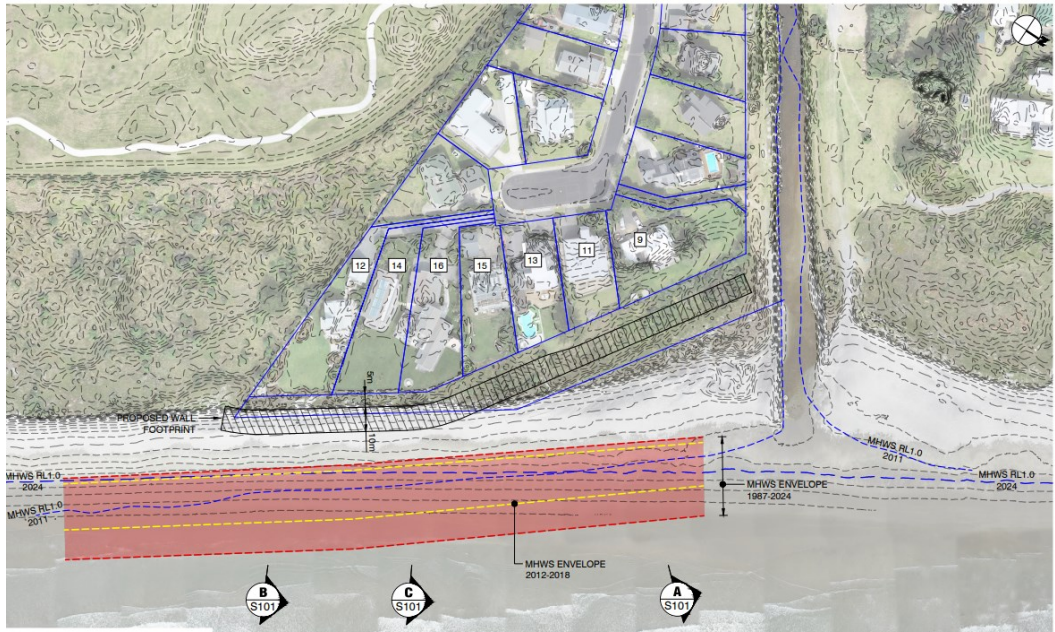
- (a) of which the seaward boundary is the outer limits of the territorial sea:*
- (b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—*
  - (i) 1 kilometre upstream from the mouth of the river; or*
  - (ii) the point upstream that is calculated by multiplying the width of the river mouth by 5*

GIPS engaged Davis Coastal Consultants to analyse the position of mean high water springs (“**MHWS**”), to inform identification of the landward boundary of the CMA. The methodology and conclusions utilised by Davis Coastal Consultants are set out in full in **Appendix E**.

The position of MHWS springs is shown in **Figure 7**, with the red area representing the envelope within which MHWS has been since 1987. The 2011 and 2024 MHWS are represented by blue dashed lines. As demonstrated by the figure below, the project site is landward of the CMA (noting that the project design has evolved from the below figure).

This position was provided to BOPRC and subsequently accepted via email on 13 May 2024. This is the basis upon which the project has progressed, the position against which the consenting requirements have been determined and the proposed construction methodology and management measures have been developed.





**Figure 13: Historic Extent of MHWS 1987-2024 (Source: Davis Coastal CMA Memo)**

#### 4. DESCRIPTION OF THE PROPOSAL

The Applicant proposes to undertake earthworks and vegetation clearance in the Coastal Environment associated with the installation of a buried coastal protection structure on Reserve land at Waihi Beach. The structure has been designed by Davis Coastal with the specific design details set out in Engineering Design Report (**Appendix F**).

The earthworks associated with the construction of the structure will be located in the back and foredune area seaward of 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place but landward of the CMA. The use of the land has been agreed to by WBOPDC Reserves through a separate process and is subject to a formal agreement which sits outside of the RMA process.

The proposal seeks to minimise the extent of land disturbance and vegetation removal by undertaking all construction activities within a dedicated “construction trench”. The length of the proposed structure is approximately 200m, and the maximum width of the construction trench is 13m at the northern end.

Earthworks will be setback from the property boundaries of 12, 14 and 16 Glen Isla Place by approximately 5m. The setback will increase to approximately 7.6m from the Norfolk Pine between 11 and 13 Glen Isla Place, and then decrease towards the northern end to approximately 6.5m. The setback off the Norfolk Pine is recommended by Arbor Care Ltd to protect the health of the tree (refer **Appendix G**).

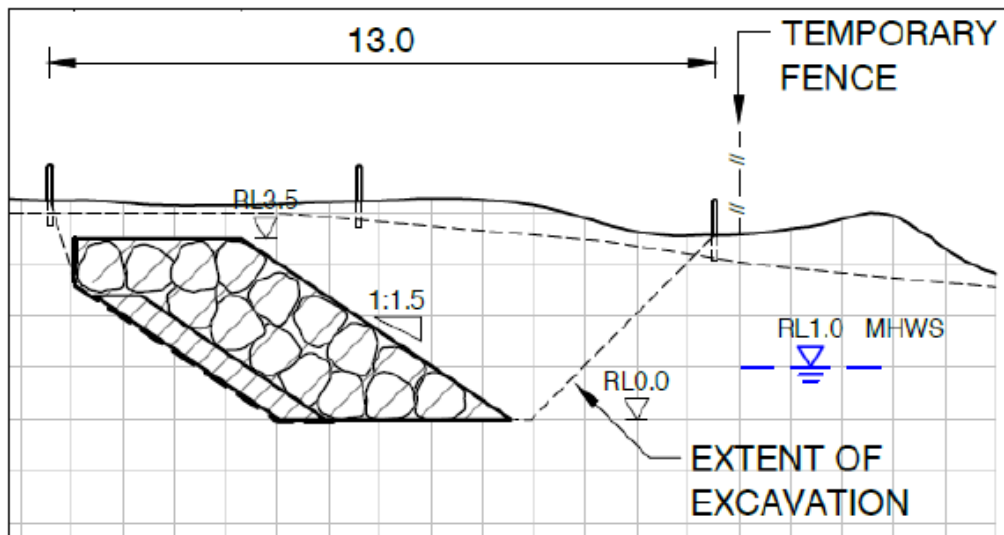
An area of high value dune vegetation, consisting of spinifex and pingao, at the northern end will be fenced, as shown in **Figure 13**. The alignment of the proposed structure, the earthworks extent and the separation of the works from this area will avoid any disturbance of this area.

The northern end will be separate from the Three Mile Creek groynes and not impact the integrity of these structures. At the southern end, a return continuing approximately 20m landward is proposed, with no construction works extending into the neighbouring DOC reserve area.

The total area of disturbance, subject to final design of the structure, is approximately 2,500m<sup>2</sup>. Earthworks are to occur to a depth of approximately 0.0mRL, requiring a maximum excavation of 5m at the northern end. An aerial image and cross section of the proposed construction trench is shown in **Figure 14** and **Figure 15**.



**Figure 14:** Indicative location of vegetation removal (blue), proposed structure (black dashed line) and northern dune vegetation to be protected.



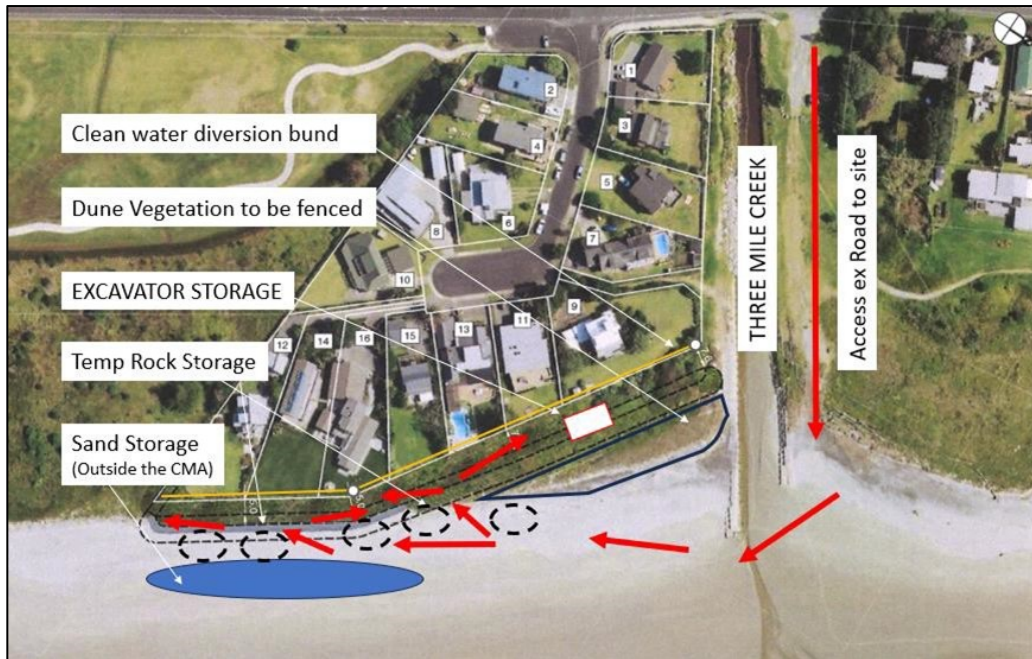
**Figure 15:** Indicative cross sectional area of excavation to place the structure in the northern portion (Source: Construction Methodology).

Rock material is proposed to be brought to site on an “as required” basis, to minimise adverse visual effects of rock stockpiles. Rocks, sourced from a local Waihi Beach quarry, will be placed on a heavy gauge geotextile and will be generally completely removed (i.e. placed within the structure) daily.

Excavated sand and rock will be temporarily stockpiled on site, landward of the CMA and high-tide mark, for re-use onsite.

With regard to erosion and sediment controls, the site is atypical due to being a sand dune in close proximity to the CMA. The run-off of fines is not considered a concern because all

excavated material will be beach sand. A clean water diversion bund is proposed to minimise risk of contamination.



**Figure 16: Indicative location of construction activities**

Vehicle access is proposed from the existing vehicle entrance at north of Three Mile Creek from 100 Seaforth Road, then along the CMA seaward of the Three Mile Creek groynes. Due to the presence of groynes on the left and right banks of Three Mile Creek, vehicles must cross a small section (approximately 50m lineal) of the CMA to access the project site from the north.

Vehicle movements will be limited to delivery and removal of an excavator at the beginning and end of works, and a road legal, pneumatic tyred tractor and tipping trailer unit for the delivery of rock and construction materials. The excavator will be left on site for the duration of the project, outside the CMA, within the footprint of the construction trench.

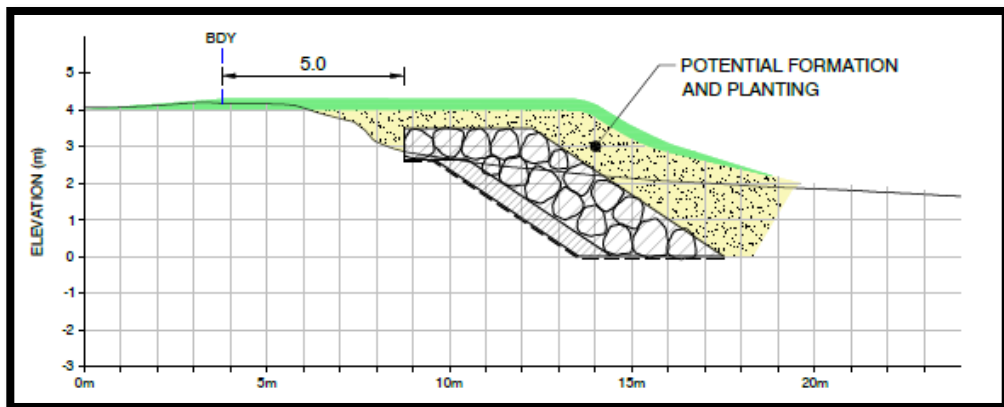
To the extent practicable, all work and material delivery shall take place above the high tide mark. Three Mile Creek will need to be crossed where it discharges onto the foreshore for material and plant delivery. Vehicle movements will be managed to minimise time below high tide and avoid contamination of the tidal area as practicable and so that disturbance is restored by natural processes in 7 days. Machinery will be clean to the extent practicable and free from any leakage of petrochemicals.

Provision of vehicle access through the CMA is the best practicable option because:

- > This is the same access point and route use by WBOPDC contractors who undertake regular (approximately monthly) maintenance works within Three Mile Creek and the CMA area.
- > Island View Reserve (DoC reserve land) to the south of the proposed earthworks is vegetated sand dune which is identified as IBDA-B1. The proposed route avoids disturbance of this sensitive habitat.
- > WBOPDC Reserve land on the true right bank (southern side of Three Mile Creek) is an existing and well used public accessway to the beach, is too narrow to accommodate the construction vehicles and does not provide a formed vehicle access to Seaforth Road.

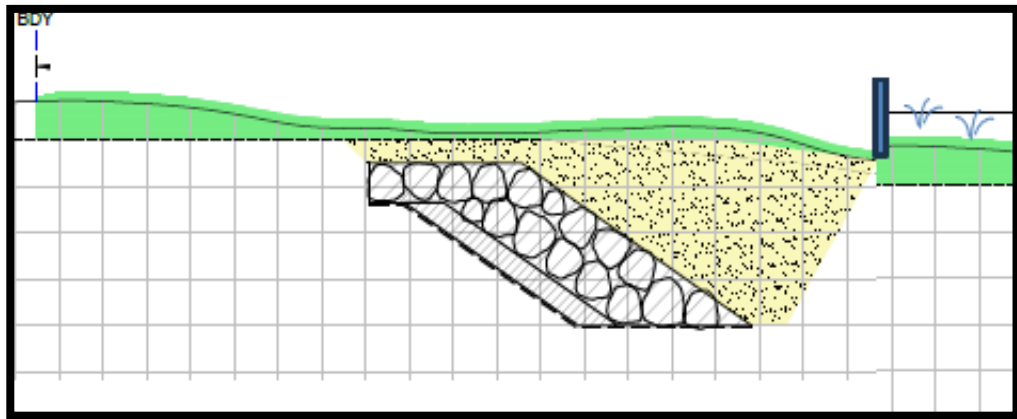
The entire structure will be buried under at least 0.5m of sand, sourced from the footprint of the structure, and recontoured to mimic natural dune form. The dune face at the southern end will be placed at 1:3, on approximately the alignment of the dune face surveyed by LiDAR in 2011, slightly landward of a typical stable dune face. The dune face will be kept as landward as practicable. The northern end will be reinstated to match existing ground level.

All disturbed areas will be revegetated with indigenous dune plant species, as recommended in the Ecology Assessment, which will be placed to avoid the appearance of “lines or bands as per the LVA recommendations. **Figure 17** and **Figure 18** provide an indication of the finished contours and planting of earthworks.



**Figure 17:** Example cross section of southern portion





**Figure 18: Example cross section of northern portion**

#### **4.1 CONSTRUCTION METHODOLOGY**

The full construction methodology is attached as **Appendix H**. Key elements of the construction methodology include:

- > Working hours will be 7am – 5pm, Monday – Friday when enabled by the tide. Work will not be undertaken at night or once daylight becomes unsuitable. However, the work is tidally and storm dependent and work may continue outside working hours for up to three days a week every two weeks. This may include Saturday working outside school holiday periods. No work will take place before 6am or after 8pm.
- > It is anticipated that the entire project will be completed in 4 months however, an allowance of 6 months is proposed to accommodate periods of inclement weather, and other unforeseen issues. On this basis a specified project duration of 6 months between April to November, inclusive, is proposed. Work will not be undertaken at Easter or other Public Holidays.
- > Where strong onshore conditions, storms or extreme tides threaten the works footprint, the works site shall be made safe, and works will cease while there is a threat of tidal interaction with the works.
- > The only activity below MHWS will be vehicle movements with the express purpose of delivering machinery and materials to the project site. During these times, signage and spotters from the construction team will ensure that the health and safety of other users of the beach is provided for.
- > Construction activities will occur within an identified construction corridor to minimise disturbance of the dunes as far as practicable. Given the sandy nature of the site, no specific erosion and sediment control measures are required.



- > Construction will occur in a staged manner. In general, the footprint will first be lowered to RL 2.0 to form a work platform. Works anticipated to occur within a single tidal cycle include excavation to target depth and the first lift (placement of geotextile and first armour layer) occurring in approximately 10m long sections. Placement of second and third armour layers is anticipated to occur in sections of approximately 50m. Should this extent of works not be feasible within a tidal cycle, the construction methodology will be updated as required.
- > Excavated material will be stored seaward of the construction area, above the normal tide range, for use in site reinstatement. All material is anticipated to be reused onsite and there will be no disposal of any material in the CMA .
- > Rock material will be delivered to site on an “as required” basis as much as practicable such that stockpiling on site is minimised but efficient construction can continue. Temporary stockpiles will be placed on heavy gauge geotextile. Any rocks not placed during the work day will be stored within the construction corridor.
- > All machinery and equipment shall be kept overnight on the wall alignment above RL 3.0. All equipment will be kept in good condition, clean and free from any leaks. No refuelling will be undertaken within the CMA and only equipment that cannot readily leave site (excavators) will be refuelled on site. A spill kit will be present on site.
- > Noise and vibration monitoring will be undertaken while works are occurring. The construction methodology will be updated if monitoring results show levels higher than the permitted construction levels.
- > At the completion of construction, disturbed dune areas to be re-vegetated with a mix of indigenous fore- and back-dune species to effectively bind the disturbed sand and re-build the dune. The planting will be with species as identified in the planting plan to be developed by the project ecologist. There will be no introduction of exotic plant species into IBDA-B1.
- > If required, a wind fencing may be utilised along face of new planting and at dune crest to minimise wind-blown sand to back dune area and protect plants while they are establishing.

## 4.2 ALTERNATIVES CONSIDERED

In developing the Proposal, the Applicant considered a range of coastal protection options, which have been summarised below. A full assessment of various options is provided in the Engineering Design Report (**Appendix F**).

It is noted that avoidance and managed retreat are not considered appropriate options in this scenario because development has already occurred adjacent to the coast, and the coastal erosion risks can be addressed by conventional engineering approaches, similar to those elsewhere on the Waihi Beach. Historical 'soft' options have also been unsuccessful when used in isolation.

GIPS considered that dune reestablishment and a high-quality dune revegetation approach would be part of any coastal protection option.

A buried rock revetment solution has been identified as the preferred option because of the benefits of:

- > Providing for construction outside the CMA;
- > Enabling a soft engineering / dune enhancement approach to be incorporated into the overall design;
- > Widely, tested and accepted design formulation for coastal erosion;
- > Proven solution on at Waihi Beach , with northern seawall walls managing recent large storm events;
- > Using locally sourced rock for the revetment; and
- > Local contractor experience with rock revetments.





## 5. RESOURCE CONSENT REQUIREMENTS

The relevant regional planning documents to the proposal are the:

- > Regional Coastal Environment Plan; and
- > Regional Natural Resources Plan.

### 5.1 COASTAL PLAN REQUIREMENTS

Rules in the Coastal Plan apply only within the CMA. The only activity proposed to occur within the CMA is the use of vehicles for the sole purpose of providing access to a site for the delivery of machinery, rock, material and plantings.

The permitted activity Rules DD 7 and DD 9 do not apply to the proposal as the proposed earthworks and vegetation clearance are not solely conservation management or soft protection method activities and are not associated with Coast Care. Additionally, the proposed vehicle use in the CMA is not prohibited by DD 18.

Therefore, the proposed vehicle use in the CMA is considered to be provided for by Rule DD 14 as a **discretionary activity**, which provides for the disturbances of the foreshore and seabed that is not provided for by another rule in the plan.

### 5.2 REGIONAL PLAN REQUIREMENTS

Activities within the Coastal Environment, but outside the CMA, are subject to the rules set out in the Regional Plan.

Earthworks in the Erosion Hazard Area and Sand Dune Country within 50m of the CMA are not provided for by any other rule in the Regional Plan and are therefore a **discretionary activity** under LM R4.<sup>4</sup>

Land and soil disturbance by vegetation clearance in Sand Dune Country and Erosion Hazard Area is not provided for by any other rule in the Regional Plan and is therefore a **discretionary activity** under LM R10.

The discharge of stormwater to land soakage is a **permitted activity** under DW R22. The proposal does not introduce impervious area, concentrate or divert stormwater such that:

- > Stormwater will not exceed the maximum rate of discharge (condition a), or cause or contribute to flooding or ponding on neighbouring land (condition f);

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<sup>4</sup> The note at LM R1 Table LM1 confirms that any earthworks within the Erosion Hazard Zone and on Sand Dune Country within 50 metres of the CMA are discretionary activities under LM R4.



- > Stormwater will not cause the production of conspicuous oil, grease films, scum or foams, or floatable materials (condition b), contain waste from a trade or industrial process (condition c), and is not from a site where chemically treated timber preserved, treated, or stored (condition d); and
- > Stormwater will not cause or induce erosion to the bed or banks of Three Mile Creek (condition e).

The Regional Plan does not contain rules controlling the use of land within the Erosion Hazard Zone or Sand Dune Country.

Overall, the proposal requires resource consent for earthworks and vegetation clearance as a **discretionary activity**.

For completeness, it is noted that the requisite resource consents from WBOPDC for land use activities, including earthworks, are being sought separately.



## 6. ASSESSMENT OF ENVIRONMENTAL EFFECTS

This section of the AEE addresses the actual and potential environmental effects associated with the proposed earthworks and vegetation clearance outside the CMA, including:

- > Positive effects;
- > Effects on coastal processes;
- > Natural Character and Natural Features;
- > Ecological effects;
- > Public access; and
- > Cultural effects.

This section of the AEE has been informed by the technical reports provided as appendices to this AEE.

### 6.1 POSITIVE EFFECTS

The proposal will enable the construction of a structure which will protect Three Mile Creek Reserve land and adjacent existing residential development from coastal erosion.

The proposal will also result in positive effects which are discussed in further detail under the relevant headings below. In particular, the proposal is anticipated to result in net benefit for ecological values due to the proposed remediation/mitigation planting of indigenous dune vegetation and will result in predominantly Moderate-High positive effects on natural character, landscape, and visual amenity.

### 6.2 CONSTRUCTION EFFECTS

The Applicant has engaged Davis Coastal Consultants to develop a Construction Methodology Statement which recognises the unique nature of the site to assist in understanding the potential effect of the works. The Construction Methodology, summarised in Section 4.1 above, is attached in full as **Appendix H**.

The site is atypical with regards earthworks and typical silt and dust control measures. All material being excavated will be beach sand so that management of fines run off will not be an issue. The downhill part of the site is bounded by sandy beach and the tide. Silt fences are not required. Additionally, given the sandy nature of the material, no specific dust control is proposed.

All machinery and equipment shall be kept overnight on the wall alignment above RL3.0. All equipment will be kept in good condition, clean and free from any leaks.



No refuelling will be undertaken within the CMA and only equipment that cannot readily leave site (excavators) will be refuelled on site. A spill kit will be present on site.

Where strong onshore conditions, storms or extreme tides threaten the site, the site will be made safe and works would cease while there is a threat of tidal interaction with the works.

With regard to construction noise, the Applicant engaged Marshall Day Acoustics (“**Marshall Day**”) to undertake a trial of construction noise and vibration effects associated with the proposal. The findings of this trial are attached in full as **Appendix I**. The trial confirmed any noise or vibration from the proposal will comply with the District Plan construction noise standards. While any noise will be permitted, the Applicant proposes to undertake noise and vibration monitoring while works are occurring to ensure noise and vibration effects are kept within acceptable levels at adjacent residential areas. The works methodology will be updated if required as a result of monitoring.

A Construction Management Plan, informed by the Construction Methodology, is to be developed once a contractor is appointed to undertake the works.

It is therefore considered that, with the management of construction activities in accordance with the proposed Construction Methodology, adverse effects of the proposal will be less than minor.

### **6.3 COASTAL PROCESSES**

The Applicant has engaged Davis Coastal Consultants to undertake an assessment of effects on coastal processes. The Coastal Processes Assessment is attached in full as **Appendix B** and has been summarised below.

The Assessment primarily relates to the potential effect of the proposed coastal erosion structure and considers existing coastal processes, projected sea-level rise and provides a probabilistic analysis of future erosion hazard and long-term shore retreat.

The project site is located outside of the CMA, well above the area of tidal interaction and changes at this level tend to represent the storm driven erosion and dune rebuilding. The site will have limited interaction with coastal processes and it is considered that the landward position, length, alignment, and design of the proposal appropriately avoids, to the extent possible, and otherwise minimises adverse effects on coastal processes.

For completeness, it is noted that the effects arising from the landward position, length, alignment, and design of the proposed structure appropriately avoids and minimises



adverse effects on coastal processes, even when taking into account the effects of sea-level and shoreline retreat over the long-term. In particular:

- > The proposed structure will have less impact on coastal processes than other structures present at Waihi Beach.
- > End effects<sup>5</sup> will be negligible due to the limited interaction of the structure with coastal processes. During the 30-50 year period, some storm scour may occur at the southern end, however, it is likely to be no worse than, and difficult to discern from, dune erosion elsewhere on the natural coastline.
- > The potential for the proposed structure to cause “sediment lock-up” and adversely affect the availability of sand will be negligible and will have no discernible effect on the surrounding beach.
- > Even in the advent of shoreline retreat, beach lowering and groyne effects will be less than minor due to the lack of protrusion into the surf zone and shore parallel alignment, and the proximity of the far larger Three Mile Creek groynes.

Overall, it is therefore considered that adverse effects of the proposal on coastal processes will be less than minor.

#### **6.4 VEHICLE USE IN THE CMA**

When considering the effects of the proposed vehicle use in the CMA, it is relevant that while the use of vehicles in the CMA to provide access to activities outside the CMA is not explicitly provided for, the vehicle use associated with the proposal will comply with the permitted conditions of Rule DD7 of the Coastal Plan. In particular:

- > There will be no discharge of contaminants;
- > The vehicles will not traverse any shellfish beds or vegetation in the CMA and will occur outside of any bird nesting area during the nesting season;
- > The vehicles will not exceed a speed of 15 km/hr;
- > The shortest possible distance between the two landward points either side of Three Mile Creek has been chosen for the route across Three Mile Creek being the CMA;

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<sup>5</sup> Such as rip currents / differential head, deflection of swash and wave energy by end of the structure, and sediment lock-up.



- > Vehicles will not be parked on the beach when not in use. Machinery to be kept on site for the duration of the project will be stored outside the CMA, within the proposed construction footprint as shown in Figure 16; and
- > The route and access point to the CMA is shown on Figure 16 above and it will be sign posted with a traffic controller present on the day.

In summary, while the vehicle use of this type is not explicitly provided for, the vehicle use associated with the proposal it is consistent with the intent of the rule and it meets all of the relevant permitted standards. Therefore, it is considered that any potential effects of the proposed vehicle use in the CMA will be appropriately provided for and managed to ensure any effects are negligible.

## 6.5 NATURAL CHARACTER AND NATURAL FEATURES

The Applicant has engaged Isthmus to undertake an Assessment of Landscape and Visual Amenity Effects (“LVA”) for the proposal. It includes an assessment of effects on the natural character of the site and its immediate surroundings. The LVA is attached in full as **Appendix C**.

The key aspects of the LVA are:

- > The site is not identified as an area of Outstanding, Very High or High natural character in statutory planning documents. This is consistent with the observed character of the area.
- > The site is within ONF S24 - Open Coastal Landward Edge Protection Yard under the District Plan. The overlay is defined as containing “all land adjoining the open coastline, zoned Rural and within 100m of MHWS”. No other specific characteristics or values are identified in the District Plan for the ONF. The proposal will avoid adverse effects on the characteristics contributing to values of the ONF overlay.
- > The site contributes to the natural character of Waihi Beach through its naturalised dune landform and planting. The existing natural character of the site is reduced by the earlier dune modifications and placement of structures; the exotic and residential/amenity-type plantings present on the dune (and visible from the beach); and the clear views of dwellings and associated structures (fencing and garden structures) at the top of the dune.
- > At completion, the effect on natural character at the site is assessed as **Moderate-High positive**. Perceptions of natural character will increase particularly at the south end with a higher-quality coastal edge and new planting visible across the full extent of the dune.

- > If exposed, either in the short or long term, the structure would be seen with planting retained to the north and top parts of the dune (at areas protected by the structure). It would be seen as part of a modified context which includes other structures close to the site; and would be visually consistent with other areas of rock revetment to the north of the site along Waihi Beach. In the long term, the structure will ensure a higher-quality coastal edge (providing a “naturalised” appearance of rock revetment seen together with planting), than would be likely to occur with the (future) effects of climate change.
- > Landscape effects relating to public access are assessed as **High positive**, as the proposal will protect the existing public access along the coast.
- > In views from Waihi Beach, effects on visual amenity are assessed as **Moderate-High positive**. The increased visual amenity will result from views of enhanced and more extensive areas of naturalised indigenous planting.
- > Effects on views from Three Mile Creek are assessed as **Neutral**. Views will be of new planting at the northern end of the site and the change will be less discernible.
- > **Low adverse** temporary construction effects are considered to be appropriately minimised by the proposed construction methodology and timing of works. These are interpreted to be “less than minor”.<sup>6</sup>
- > The proposal meets the relevant objectives and policies of the New Zealand Coastal Policy Statement (“**NZCPS**”) and the regional and local statutory planning documents, in that it will not generate adverse effects on the attributes/characteristics contributing to values of the ONF identified over the site; and will not generate significant adverse effects on the attributes contributing to the natural character of the site and its more immediate surroundings at Waihi Beach.
- > The LVA recommends that:
  - > A detailed planting plan is provided for the proposed revegetation of the site, with confirmation of plant placement on the ground by an ecologist or landscape architect prior to planting, to ensure that a naturalised appearance to new planting is achieved, with species located in naturalised groupings and any appearance of “bands” or “lines” of particular species avoided.
  - > Rock is sourced from a local Waihi Beach quarry, and with a variety of sizes selected to ensure a more naturalistic appearance to the revetment (should rocks become exposed after a large storm event or over time due to the effects of climate change). For parts of

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<sup>6</sup> Per the NZILA Rating Scale guidance provided in Appendix A to the LVA.

the structure at risk from erosion/exposure, rocks with a weathered appearance should be used (as far as possible).

The Applicant has accepted and adopted the recommendations of the LVA.

Overall, the effects of the proposal on natural character, landscape and visual amenity are predominantly positive effects and construction effects are temporary and are appropriately managed.

## 6.6 ECOLOGICAL EFFECTS

The Applicant has engaged BlueGreen Ecology to undertake an assessment of effects on ecological values. This report is attached in full as **Appendix D**. By way of summary, the assessment concludes that:

- > The site is located within an 'Indigenous Biological Diversity Area B (IBDA B1 Central Waihi Beach)' layer overlay of the Coastal Plan.
- > The site contains three main vegetation assemblages:
- > 'Northern spinifex foredune' (400 m<sup>2</sup>) of High ecological value;
- > 'Central exotic terrace, hollow and riser slope' (2430 m<sup>2</sup>) of Negligible ecological value; and
- > 'Southern pohuehue' (175 m<sup>2</sup>) of Low ecological value.
- > The 'northern spinifex foredune' meets the following criteria under the NZCPS:
- > Policy 11(a)(i) due to the presence of pingao (*At Risk*);
- > Policy 11(a)(iii) due to sand dunes being natural rare ecosystems;
- > Policy 11(b)(i) being an area of predominantly indigenous vegetation in the coastal environment; and
- > Policy 11(b)(iii) being indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification.
- > The proposed construction methodology appropriately avoids effects on the 'northern spinifex foredune'.
- > The 'southern pohuehue assemblage' meets Policy 11(b)(i) of the NZCPS, being an area of predominantly indigenous vegetation in the coastal environment.
- > The proposed structure and construction footprint will result in the loss of 0.17% of that 'southern pohuehue assemblage' vegetation community assemblage at the local scale (0.007 ha of 4 ha), which is considered Negligible. Given the Low ecological value of this





vegetation assemblage and Negligible effect, this effect is considered Very Low at the local scale, and any adverse effects can be appropriately remedied and mitigated.

- > The loss of 0.5% of exotic dune vegetation at the local scale (0.2425 ha of 52 ha) will have a Very Low adverse effect due to the Negligible ecological value of this vegetation assemblage and negligible magnitude of effect.
- > With the proposed remediation / mitigation planting to restore and enhance disturbed areas, the proposal is considered to have a net benefit.

A planting plan is proposed which seeks to replace all disturbed vegetation with appropriate native species and to secure the disturbed area.

As noted above, the proposal avoids significant adverse effects and appropriately remediates and mitigates all other adverse effects such that the proposal will have a net positive ecological benefit.

## **6.7 PUBLIC ACCESS**

As noted in section 3 of this AEE, public access along this extent of Waihi Beach is provided above the MHWS and connects to the formed public accessway provided on both the northern and southern banks of Three Mile Creek.

With regards to temporary effects arising during construction, the proposed works are to occur for a 4-6 month period, predominantly over the colder winter months. This ensures that public access at the busiest times of year, particularly the summer/Christmas holiday period, will not be interrupted.

The location of the works, within the dunes and back dune area in front of 9 and 11-16 Glen Isla Place, will mean that even during high tide there will be public access maintained along the beach. Access to the beach will remain available at all times on the northern side of Three Mile Creek, and via Island View Reserve to the south.

Access along the southern side of Three Mile Creek to the beach will be maintained, to the extent practicable, during construction of the northern section of the structure. However, there may be a short period, 1-2 weeks, where access restrictions may be in place when the construction works are located in the northern most extent of the structure immediately adjacent to the accessway. These restrictions will be managed through fencing off the construction site from the accessway to separate any pedestrians from the site for health and safety reasons.



Any temporary interruption of public access is considered appropriate for protecting the health and safety of the public around an active construction area and will be managed through the use of signage and spotters from the construction team.

Overall, the proposed location of the structure is the best practicable option and will not contribute to public access issues on the wider beach. It is therefore considered that the proposal will not result in any adverse effects on public access along the coast and to the wider beach environment due to its location in the dune system.

## **6.8 CULTURAL EFFECTS**

Regarding the impacts of the project on cultural values and interests, as set out in Section 7.2, GIPS extended opportunities to engage with mana whenua in order to build a further understanding of their relationship with the project area, and how their relationship can be recognised and provided for, as well as their role as kaitiaki. However, it is noted that none of these engagement offers have been accepted.

Notwithstanding, and acknowledging no specific commentary has been provided by mana whenua, when considering the proposal and tangible cultural impacts it is noted that:

- a) The project will not be located within any recorded 'Sites of Significance to Māori' as identified in the District Plan;
- b) The project will not be located within any Statutory Acknowledgement Area nor will any aspects on the project impact on these areas; and
- c) The Applicant has considered the impacts of the project on the natural values of the coastal environment and coastal processes. In this regard it is noted that the proposed site remediation will result in net ecological benefit and predominantly positive effects on natural character, landscape and visual amenity.

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



## 7. CONSULTATION

Through development of the project, GIPS have consulted with and / or extended invites to engage to:

- > Neighbouring landowners, including residents of 1-10 Glen Isla Place;
- > Ngāti Ranginui Iwi Society Inc;
- > Ngāti Te Wai;
- > Te Runanga o Ngai Te Rangi Iwi Trust;
- > Te Runanga o Ngāti Pukenga Iwi;
- > Te Whanau a Tauwhao ki Otawhiwhi;
- > WBOPDC; and
- > BOPRC.

### 7.1 RESIDENTS OF 1-8 AND 10 GLEN ISLA PLACE

GIPS have held numerous formal and informal conversations with neighbouring properties at Glen Isla Place since early 2024. A range of correspondence and information documents on the proposal has been provided to the Glen Isla residents (provided as **Appendix J**) through the development of the proposal.

GIPS understand that key:

- > Adverse noise and vibration effects of construction;
- > Traffic impacts; and
- > Walking access to the coastal margin.

With regard to noise and vibration effects and effects on traffic, these matters will be appropriately considered under the District Council application and are not considered further here.

The impacts of the proposal on public access to the coastal margin are detailed in Section 6.7.

### 7.2 IWI, HAPŪ AND MARAE

GIPS have extended multiple invitations to engage to iwi, hapū and marae who were identified as having a cultural association with Waihi Beach.



A high-level summary of the proposal and an invitation to meet to discuss the proposal was sent to Ngāti Ranginui Iwi Society Inc, Ngāti Te Wai, Te Runanga o Ngai Te Rangi Iwi Trust, Te Runanga o Ngāti Pukenga Iwi, and Te Whanau a Tauwhao ki Otawhiwhi on 2 July 2024, again on 29 July 2024 and on 27 August 2024.

Other than a response from Ngāti Te Wai Hapu deferring to Te Whanau a Tauwhao ki Otawhiwhi received on 31 July 2024 via email, no responses have been received on the invitations to engage.

In addition, the following applicant groups seeking a customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011 (“**MACAA**”) have been sent a copy (Refer to **Appendix K**) of the proposal in accordance with section 62A of the MACAA:

- > Ngati Whanaunga;
- > Ngati Hako;
- > Ngati Pukenga;
- > Nga Hapu o Ngati Ranginui Settlement Trust;
- > Ngati Tara Tokanui;
- > Ngai Te Rangi; and
- > Nga Hapu o Ngai Te Rangi.

Where responses are received and where those responses are relevant to the proposal, the views obtained from the applicant groups will be provided to BOPRC.

### 7.3 WESTERN BAY OF PLENTY DISTRICT COUNCIL

In October 2023,<sup>7</sup> GIPS sought approval in principle from the WBOPDC for a proposal to establish a buried coastal protection structure on the Reserve land adjacent to their properties. The Council approved in principle the private construction of a consented structure subject to the following conditions:

- > A resource consent being granted by the relevant consent authority;
- > Consents and construction fully funded by the property owners; and
- > Agreement with WBOPDC on operational cost and responsibilities.

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<sup>7</sup> The meeting [agenda](#) and [minutes](#) are available on the District Council’s website.



In accordance with these conditions, an application for the requisite consents from WBOPDC have been applied for under a separate application concurrently, and the consent and construction costs are fully funded by GIPS.

Subsequent to the discussions with WBOPDC Reserves team, GIPS have also attended a pre-application meeting and had discussions with WBOPDC regarding specific consent requirements and undertaking of a noise trial.

#### **7.4 BAY OF PLENTY REGIONAL COUNCIL**

Pre-application consultation with BOPRC has largely focussed on the location of the structure with regard to the CMA and defining consent requirements as well as the regional activities associated with the noise trial.



## 8. STATUTORY ASSESSMENT

### 8.1 INTRODUCTION

The RMA is the principal statutory document governing the use of land, air and water. The purpose of the RMA, as set out in Section 5 of the RMA, is to “promote the sustainable management of natural and physical resources”. This section of the AEE sets out the framework under the RMA that applies to the resource consents that are being sought from BOPRC.

### 8.2 SECTION 104 ASSESSMENT

Regarding the consideration of resource consent applications, section 104 of the RMA states:

*104 Consideration of applications*

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must under section 104(1), subject to Part 2, have regard to—*
- (a) *any actual and potential effects on the environment of allowing the activity; and*
  - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
  - (b) *any relevant provisions of—*
    - (i) *a national environmental standard:*
    - (ii) *other regulations:*
    - (iii) *national policy statement:*
    - (iv) *a New Zealand coastal policy statement:*
    - (v) *a regional policy statement or proposed regional policy statement:*
    - (vi) *a plan or proposed plan; and*
  - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

Section 104 of the RMA does not give primacy to any of the matters to which a consent authority is required to have regard. All of the relevant matters are to be given such weight as the consent authority sees fit in the circumstances, and all matters listed in section 104(1) are subject to Part 2 of the RMA (although it is understood that a consent authority is not



required to consider Part 2 of the RMA unless there is uncertainty in the relevant statutory planning documents).

With respect to Section 104(1)(a) of the RMA, the actual and potential effects on the environment from the activities are set out in Section 6 of this AEE. In summary, while there may be some temporary impacts during the construction, the proposal will result in an overall positive effect.

In terms of Section 104(1)(b) of the RMA, the following sub-sections provide an assessment of the resource consent application against the:

- > NZCPS;
- > National Policy Statement for Indigenous Biodiversity 2023 (“**NPS-IB**”);
- > Bay of Plenty Regional Policy Statement (“**RPS**”); and
- > Coastal Plan; and
- > Regional Plan.

In terms of Section 104(1)(c) of the RMA, the following documents are considered relevant and reasonably necessary to determine the application, and are assessed below:

- > Tauranga Moana Iwi Management Plan 2016-2026; and
- > Customary Marine Title Planning Documents.

### **8.3 SECTION 104B ASSESSMENT**

Section 104B of the RMA relates to consideration of discretionary activities:

*104B Determination of applications for discretionary or non-complying activities*

*After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—*

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under section 108.*

### **8.4 NEW ZEALAND COASTAL POLICY STATEMENT 2010**

The NZCPS is a national policy statement under the RMA and took effect in December 2010. Change 1 to the RPS, which gives effect to the NZCPS, became operative on 3 June 2015 and the Coastal Plan was made operative on 3 December 2019. The RPS and Coastal Plan implement the NZCPS within the context of the Bay of Plenty Region, and therefore it can be expected that the higher-order NZCPS is also satisfied.

Despite the assessment of this proposal against the RPS and Coastal Plan later in this section, for completeness the project is also assessed against the relevant NZCPS provisions as follows.

**Objective 5, Policy 24, Policy 25, Policy 26 and Policy 27 (Coastal hazard risks)**

Objective 5 is the dedicated coastal hazard objective. It seeks to ensure that the management of coastal hazard risks considers responses for existing development and protects or restores natural defences to coastal hazards. It is given effect to by Policies 24-27.

Policy 24 lays the foundation for a risk-based coastal hazard management approach which takes a 100-year perspective. The identification of coastal hazard risks is to take into account national guidance and the best available information on the likely effects of climate change on the region or district. As noted in Section 2 above, WBOPDC have undertaken hazard mapping in accordance with the requirements of Policy 24 and included hazard maps in the District Plan. The project site has been identified as being susceptible to coastal erosion and coastal inundation over the next 100 years and also as an Erosion Hazard Zone under the Regional Plan. Furthermore, the Coastal Processes Assessment (**Appendix B**) and Engineering Design Report (**Appendix F**) consider the effects of the proposal over a 100-year timeframe, and the proposed design of the structure responds accordingly.

Policy 25 is the overarching policy for managing the risk of social, environmental and economic harm from coastal hazards in areas of the coastal environment that are potentially affected by coastal hazards. Policy 26 addresses natural defences against coastal hazards while Policy 27 specifically addresses the protection of significant existing development in areas likely to be affected by coastal hazards. NZCPS Guidance on Objective 5 and Policies 24-27 indicates that “*Areas of significant existing development may include areas of residential development...*”.

With regard to Policies 25 and 26, given its intent, the proposal will not increase the risk of adverse effects from coastal hazards, and the proposal will contribute to the protection and enhancement of natural defences provided by the existing sand dunes which hold significant biodiversity value.

With regard to Policy 27:

- > The proposal relates to the protection of existing residential development;
- > The opportunity to avoid the risks from coastal hazards has already passed for existing residential development at Glen Isla Place and a hard protection structure is the only practical means to protect these properties. A ‘do-nothing’ approach is not considered





acceptable in this context. Earthworks and vegetation clearance are essential to enable the coastal protection works;

- > The form and location of the proposal, and the proposed construction methodology have been designed to minimise adverse effects on the coastal environment, including visual and amenity effects on beach users, and the ecological effects on existing indigenous sand dune vegetation; and
- > The proposal provides significant environmental benefits through the removal of exotic vegetation, proposed dune enhancement following construction and protects significant indigenous biodiversity, and it is appropriate to be located on reserve land (which has been supported by the WBOPDC Reserves team through a separate agreement).

### **Objective 3, Policy 2 and Policy 17 (The Treaty of Waitangi, tangata whenua and Māori heritage)**

Objective 3 and Policy 2 relate to the relationship of tangata whenua with their rohe and protecting characteristics of special value, which include places of historic cultural or spiritual significance. Policy 17 directs the protection of historic heritage in the coastal environment from inappropriate development.

Policy 2 of the NZCPS specifically requires kaitiakitanga to be taken into account in relation to the coastal environment, including provision for the exercise of kaitiakitanga by tangata whenua, and providing opportunities for direct involvement of tangata whenua in decision making. As referenced in Section 7.2, the Applicant has extended multiple invitations to iwi, hapū and marae groups to engage on the proposal however, none of these invitations have been taken up.

While there are no known sites of significance to Māori within the proposed project area, an Accidental Discovery Protocol is proffered as a condition of this consent to ensure a proactive approach is taken should items of potential significance or interest be uncovered during earthworks.

### **Objective 6 and Policy 6 (Activities in the coastal environment)**

Objective 6 and Policy 6 recognise that some uses and development in the coastal environment, including the provision of infrastructure, is important for social, economic and cultural well-being and the protection of coastal environment values does not preclude appropriate uses and development.



The proposal has a functional need to be located in the coastal environment in order to protect existing development and Council reserve land from coastal erosion. The proposal does not seek to enable further urban development.

The proposal is setback from the CMA and has been designed to be of an appropriate form, scale and location to ensure coastal environment values are protected. Public access along the beach will be maintained, significant adverse effects on ecology and biodiversity will be avoided, and the proposal appropriately remediates and mitigates all other adverse effects on ecology such that the proposal will have a net benefit. The proposal will have predominantly positive effects on natural character, as described in preceding sections of this report.

### **Objective 1 and Policy 11 (Indigenous biological diversity)**

The reserve land is identified as IBDA-B1 and contains some areas of indigenous dune vegetation. The Ecological Assessment (**Appendix D**) identifies that the ‘northern spinifex foredune’ meets the following criteria under Policy 11 of the NZCPS:

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

In addition, the ‘southern pohuehue assemblage’ meets Policy 11(b)(i) of the NZCPS, being an area of predominantly indigenous vegetation in the coastal environment.

Policy 11(a) requires that adverse effects on more sensitive areas of indigenous biodiversity are avoided and Policy 11(b) seeks to avoid significant adverse effects however other adverse effects may be avoided, remedied or mitigated.

As described in Section 6.6, adverse effects of the proposal are considered to be appropriately avoided, remedied or mitigated for the following reasons:

- > Adverse effects on ‘northern spinifex foredune’ will be avoided through the design of the proposal and construction methodology, which avoids the identified area of *At Risk* vegetation;
- > There are no significant adverse effects associated with the loss of the ‘southern pohuehue assemblage’ or the ‘central exotic terrace, hollow and riser’;



- > Other adverse effects arising from the loss of vegetation in these areas is of a negligible magnitude, and appropriately remedied and mitigated through the minimisation of disturbed area and revegetation of disturbed areas with indigenous dune species; and
- > A planting plan is provided to ensure remediation / mitigation of the disturbance will result in a net ecological benefit at the local scale.

**Objective 2, Policy 13 (Preservation of natural character), and Policy 15 (Natural features and natural landscapes)**

Objective 2 seeks the preservation of natural character and the protection of natural features and landscape values. The reserve land is identified as Natural Feature/Landscape – S24 in the District Plan. The LVA confirms the proposal is not in or adjacent to any an area of Outstanding, Very High or High Natural Character.

For natural character areas that are not ‘outstanding’, Policy 13(b) requires significant adverse effects on natural character to be avoided, and all other effects on natural character are to be avoided, remedied or mitigated.

For natural features and natural landscapes that are not ‘outstanding’, Policy 15(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.

With the adoption of the recommendations made in the LVA, the proposal is considered to give rise to predominantly positive effects on natural character, landscape and visual amenity. Construction effects on these values will be temporary, minimised through methodology, and overall less than minor. Once completed, the proposal will avoid adverse effects on the characteristics contributing to values of the Natural Feature/Landscape overlay.

The proposal is therefore consistent with the direction of Policy 13(b) and 15(b) to avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects.

**Objective 4, Policy 18 (Public open space) and Policy 19 (Walking access)**

Objective 4 seeks to maintain and enhance public open space qualities and recreation opportunities of the coastal environment. Policy 18 requires the need for public open space to be recognised and the provision of public space. Policy 19 requires the public expectation and need for walking access to and along the coast to be recognised, and that walking access is maintained and enhanced.



The location of the works, within the dunes and back dune area in front of 9 and 11-16 Glen Isla Place, will mean that even during high tide there will be public access maintained along the beach. Access to the beach will remain available at all times on the northern side of Three Mile Creek, and via the Island View Reserve to the south.

Access along the southern side of Three Mile Creek to the beach will be maintained, to the extent practicable, during construction of the northern section of the structure. However, there may be a short period, 1-2 weeks, where access restrictions may be in place when the construction works are located in the northern most extent of the structure immediately adjacent to the accessway. These restrictions will be managed through fencing off the construction site from the accessway to separate any pedestrians from the site for health and safety reasons.

Upon completion of the works, all existing accessways will be available for use.

As per the assessment against Objective 2, Policy 13 and Policy 15 above, the proposal is considered compatible with the natural character, natural feature, landscape and amenity values associated with the reserve land. These values would be maintained and enhanced through the proposed planting. In this regard, it is noted that the existing dunes do not provide for active or passive recreation.

#### **Policy 20 (Vehicle access)**

Policy 20 relates to the control of vehicles on beaches and adjacent public land in certain circumstances. The only vehicles proposed to be used in the CMA are vehicles with the express purpose of undertaking the proposed earthworks.

With regard to the disturbance of the foreshore that may arise due to vehicle use in the CMA, the Construction Methodology (**Appendix H**) identifies the measures take to control vehicle use, including:

- > Vehicle use in the CMA will be restricted to an excavator which will be left onsite for the duration of the works, and a pneumatic tyred tractor and tipping trailer unit for delivery of materials;
- > The proposed route is considered the best practicable option and avoids disturbance of vegetated sand dune identified as IBDA-B1 to the south of the project site;
- > Vehicle movements will be managed to take a direct route to minimise disturbance;
- > Any disturbance caused, such as vehicle tyre tracks, are anticipated to be restored by natural processes within 7 days;



- > Machinery will be clean to the extent practicable and will be free of any leakage of petrochemicals; and
- > No vehicle or machinery refuelling, or maintenance will occur within the CMA.

Potential damage to sand dunes or harm to indigenous vegetation and habitat that may be caused by these vehicles is controlled by the proposed construction methodology. As noted in Section 6, the works have been designed to minimise the disturbance of the dune area and all disturbed areas will be subject to replanting upon the completion of works.

## 8.5 NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY 2023

The NPS-IB came into effect in August 2023. It provides direction to councils to protect, maintain and restore indigenous biodiversity requiring at least no further reduction nationally. It provides direction on how to identify and protect significant indigenous biodiversity and manage the adverse effects of subdivision use and development.

The NPS-IB includes one objective:

*(1) The objective of this National Policy Statement is:*

- (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and*
- (b) to achieve this:*
  - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*
  - (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and*
  - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*
  - (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

The most relevant policies are replicated and commented upon below.

*Policy 2: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:*

- (a) managing indigenous biodiversity on their land; and*
- (b) identifying and protecting indigenous species, populations and ecosystems that are taonga; and*
- (c) actively participating in other decision-making about indigenous biodiversity.*



The Applicant has extended invitations to engage on the proposal to hapū, marae and iwi with an interest in Waihi Beach in an attempt to understand how to provide for their relationship with Waihi Beach and their role as kaitiaki. While none of these invitations have been taken up, commentary on impacts of the proposal on ecology and biodiversity have been provided in Section 6 above.

*Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.*

A precautionary approach is required when the effects of a proposed activity on indigenous biodiversity are uncertain, unknown, or little understood but those effects could cause significant or irreversible damage to indigenous biodiversity (Clause 3.7).

The potential effects of the proposal have been identified and assessed in the Ecology Assessment (refer **Appendix D**) and summarised in Section 6.6 above. The Ecology Assessment concludes that the proposal will have a net ecological benefit. It is therefore considered that the potential effects of the proposal on indigenous biodiversity are known and well understood and will not cause significant or irreversible damage to indigenous biodiversity such that a precautionary approach is not necessary to adopt in relation to this proposal.

*Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.*

It is noted that the RPS and District or Regional Plans have not yet been amended to include provisions giving effect to Clause 3.21, however, the project site is identified as IBDA-B1 in the Regional Plan.

The proposal includes the enhancement of the indigenous dune vegetation and will not involve the permanent destruction of significant habitat of indigenous biodiversity. Clause 3.11(3) requires any adverse effects on an SNA to be managed by applying the effects management hierarchy (as specified by clause 3.10(3) and (4)) or under any alternative management approach that is consistent with provisions of the RPS, District Plan and Regional Plan relating to restoration (Clause 3.21).

The Ecology Assessment includes an assessment of the proposal against the effects management hierarchy and recommends a planting plan which will ensure remediation / mitigation of the works result in a net ecological benefit.

*Policy 10: Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.*



In giving effect to Policy 10, Clause 3.5. requires local authorities to consider that the protection, maintenance, and restoration of indigenous biodiversity contributes to the social, economic, and cultural wellbeing of people and communities. The proposal will provide benefits for cultural, social and economic well-being as documented in Section 5 of this AEE. In this context, this is primarily achieved through the ecological remediation and mitigation which will result in a net ecological benefit, and the proposed construction methodology which avoids disturbance of, therefore avoids significant adverse effects on, high value indigenous dune vegetation.

Local authorities must also consider that the protection, maintenance, and restoration of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms. The proposal has a functional need to be located in this area and significant adverse effects of the proposal on indigenous biodiversity are avoided and all other adverse effects are remedied / mitigated, demonstrating that the proposal is located in an appropriate place and is of an appropriate scale and form to fulfill its function.

*Policy 13: Restoration of indigenous biodiversity is promoted and provided for.*

The proposal seeks to enhance the indigenous biodiversity within the Glen Isla dune area. The Applicant has adopted the planting plan recommendation in the Ecology Assessment and proposes to carry out the plantings in the first planting season after works are completed as a requirement of consent conditions

Overall, the proposal is consistent with the objective and relevant policies of the NPS-IB.

## **8.6 BAY OF PLENTY REGIONAL POLICY STATEMENT (RPS)**

The RPS sets out regionally significant issues, and associated objectives and policies to address the issues. This planning policy framework is to be given effect by the Regional Plan and Coastal Plan, which are discussed later in this report.

The issues, objectives and policies relevant to this application relate to the management of the coastal environment, integrated resource management, iwi resource management, matters of national importance, natural hazards.

The following sections identify the relevant objectives and provide an assessment against the relevant policies which give effect to those objectives.



## Coastal Environment

The relevant objectives pertaining to the coastal environment are:

### **Objective 2**

*Preservation, restoration and, where appropriate, enhancement of the natural character and ecological functioning of the coastal environment.*

### **Objective 4**

*Enable subdivision, use and development of the coastal environment in appropriate locations.*

Policy CE 12B requires the avoidance of inappropriate hazard mitigation in the coastal environment. In this regard, it is noted that:

- > The proposal is the only practical means to protect the reserve land at the Glen Isla dune and the adjoining existing residential properties at Glen Isla Place, and the proposed land disturbance is required to enable these works;
- > The proposal incorporates soft engineering over top of hard structures to enhance natural defences provided by the sand dunes and a naturalised coastal area; and
- > Public access along and to the beach will be maintained throughout the construction period. Once the works are complete, public access to the beach along the existing formed accessways either side of Three Mile Creek will not be impacted..

The proposal has been designed and located to be consistent with the other relevant policies of the coastal environment chapter. In particular:

- > The proposal is not in an area identified as having Outstanding, Very High or High Natural Character in Appendices J or I and significant adverse effects on natural character are avoided by minimising the area of disturbance and enhancing the sand dunes;<sup>8</sup>
- > Proposed dune reinstatement will protect and restore the capacity of the sand dunes to provide existing development with a protective buffer from coastal erosion;<sup>9</sup>
- > An assessment against Policy 11 of the NZCPS is provided above. An assessment of ecological effects provided in Section 6.6 confirms that indigenous biodiversity will be protected and enhanced by the proposal;<sup>10</sup>

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<sup>8</sup> Policy CE 2B

<sup>9</sup> Policy CE 4A

<sup>10</sup> Policy CE 6B





- > The proposal has been designed in a manner which is appropriate to the natural character of the coastal environment. The natural character of the site and an assessment of effects is attached at **Appendix C**. The proposal is appropriately located outside the CMA and has a functional need to locate in the coastal environment. Section 6 provides an assessment of effects of the proposal and describes the manner in which those effects are avoided, remedied or mitigated;<sup>11</sup>
- > The proposal safeguards the life supporting capacity of coastal ecosystems by maintaining the extent and profile of the sand dunes and undertaking planting of indigenous dune plant species to enhance habitat for indigenous species;<sup>12</sup> and
- > Potential adverse effects of the proposal on marine water quality have been provided for in the proposed construction methodology by managing the refuelling of machinery and ensuring sand and rock stockpiles are located outside the tidally influenced area. The proposal does not create significant impervious area.<sup>13</sup>

### Integrated Resource Management

The first relevant objective relating to integrated resource management is:

**Objective 11**

*An integrated approach to resource management issues is adopted by resource users and decision makers.*

**Objective 12**

*The timely exchange, consideration of and response to relevant information by all parties with an interest in the resolution of a resource management issue.*

The Applicant, as a resource user, has adopted an integrated approach as demonstrated by:

- > Undertaking a number of technical assessments to reduce scientific uncertainty and avoid serious or irreversible adverse effects;<sup>14</sup>
- > Having regard to the likely effects of climate change with particular regard to predicted sea level rise, and cumulative effects as demonstrated through the Coastal Processes Assessment attached as **Appendix B** and the Engineering Report attached as **Appendix F**;<sup>15</sup>

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<sup>11</sup> Policy CE 8B

<sup>12</sup> Policy CE 9B

<sup>13</sup> Policy CE 10B

<sup>14</sup> Policy IR 1B

<sup>15</sup> Policy IR 2B

- > Designing the proposal in a way which recognises the interconnected nature and multiple values of natural and physical resources, responds to potential adverse effects, and maximises the potential benefits by combining hard protection with enhancement of natural defences. The proposal has been informed by assessment against a number of alternatives over 100-year period;<sup>16</sup>
- > Consulting with neighbours, community members and tangata whenua, as detailed in Section 7 of this AEE;<sup>17</sup>
- > The effects of the proposal are assessed in Section 6 of this AEE. Overall, adverse effects are considered to be appropriately avoided, remedied and mitigated. The proposal is not anticipated to contribute to the incremental degradation of water quality or sites of significance to Māori, or increase risk from natural hazards;<sup>18</sup> and
- > The necessary resource consents from WBOPDC are being applied for in a separate application.<sup>19</sup>

### **Iwi Resource Management**

With regard to iwi resource management matters, the following objectives are relevant to the proposal:

#### **Objective 13**

*Kaitiakitanga is recognised and the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are systematically taken into account in the practice of resource management*

#### **Objective 15**

*Water, land, coastal and geothermal resource management decisions have regard to iwi and hapū resource management planning documents*

#### **Objective 17**

*The mauri of water, land, air and geothermal resources is safeguarded and where it is degraded, where appropriate, it is enhanced over time*

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<sup>16</sup> Policy IR 3B

<sup>17</sup> Policy IR 4B

<sup>18</sup> Policy IR 5B

<sup>19</sup> Policy IR 6B



As noted above, GIPS has extended invitations to engage with mana whenua who have an interest in Waihi Beach to understand their relationship with the project area, and how their relationship can be recognised and provided for, as well as their role as kaitiaki.<sup>20</sup>

The proposal has been developed taking into account the mātauranga-based policy-framework articulated in the Tauranga Iwi Management Plan 2016-2026, as detailed further in Section 8.9.<sup>21</sup>

The Applicant has, from a western science perspective, sought to avoid and remedy adverse effects on values of the coastal environment, including by protecting water quality of coastal and freshwaters and enhancing indigenous biodiversity values. The Applicant also proposes to implement an Accidental Discovery Protocol during construction works to prudently manage the risk of unearthing kōiwi or other wāhi tapu during earthworks.<sup>22</sup>

### **Matters of National Importance**

With regard to matters of national importance, the relevant objectives are:

#### **Objective 19**

*The preservation of the natural character of the region's coastal environment (including coastal marine areas) wetlands, lakes and rivers and their margins*

#### **Objective 20**

*The protection of significant indigenous habitats and ecosystems, having particular regard to their maintenance, restoration and intrinsic values.*

#### **Objective 21**

*Recognition of and provision for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*

#### **Objective 22**

*The coastal marine area, lakes and rivers are generally accessible to the public*

The Applicant has recognised and provided for the relevant matters of national importance by:<sup>23</sup>

- > Giving particular consideration to the protection of IBDA-B1 by designing works to minimise disruption to areas with predominantly indigenous vegetation. The Applicant

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<sup>20</sup> Policy IW 2B and Policy IW 3B

<sup>21</sup> Policy IW 4B

<sup>22</sup> Policy IW 5B and IW 6B

<sup>23</sup> Policy MN 1B



also proposes to undertake enhancement works to recognise and protect the significant indigenous habitat provided by these dune ecosystems;<sup>24</sup>

- > Using the identified criteria to inform assessments of effects on natural character, natural features and landscapes, indigenous vegetation and public access;<sup>25</sup>
- > Incorporating the retention of sand dunes and enhancement of indigenous vegetation as part of the proposal;<sup>26</sup>
- > Public access along and to the beach will be maintained throughout the construction period. Once the works are complete, public access to the beach along the existing formed accessways either side of Three Mile Creek will not be impacted;<sup>27</sup> and
- > Avoiding adverse effects on natural character and indigenous biodiversity to the extent practicable, and remedying and mitigating all other adverse effects.<sup>28</sup>

### Land Use and Water Quality

With regard to land use and water quality, the following objective and policy are considered relevant to the proposal:

#### **Objective 29**

*Land use activities are:*

- 1 *Within the capability of the land to support the activity;*
- 2 *Integrated with the wider environmental values of their surroundings; and*
- 3 *Within the capacity of receiving waters to assimilate any discharge*

#### **Policy WL 7B: Minimising the effects of land and soil disturbance**

*Achieve regional consistency by controlling land and soil disturbance activities to:*

- (a) *Avoid accelerated erosion and soil loss; and*
- (b) *Minimise silt and sediment runoff into water, or onto or into land that may enter water, so that healthy aquatic ecosystems are sustained.*

The proposal is consistent with Policy WL 7B in that earthworks will be managed to avoid erosion and loss of the sand dunes, and minimise sediment run off. Measures to protect the health of Three Mile Creek and the coastal aquatic ecosystems include:

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<sup>24</sup> Policy MN 2B

<sup>25</sup> Policy MN 3B and Policy MN 7B

<sup>26</sup> Policy MN 4B

<sup>27</sup> Policy MN 5B and Policy MN 6B

<sup>28</sup> Policy MN 8B



- > Setting the area of works back from the CMA and the open waters of Three Mile Creek;
- > Ensuring all excavated material is reused onsite to bury the structure and no material is placed in the CMA;
- > Limiting activities in the CMA to only those vehicle movements required to deliver machinery and construction materials; and
- > Ensuring no refuelling occurs within the CMA and refuelling of equipment that cannot readily leave the site will occur in accordance with a refuelling plan.

In addition, enhancement planting of indigenous dune vegetation will assist in minimising accelerated erosion and loss of this area.

### **Natural Hazards**

There is one objective specific to natural hazards in the RPS:

***Objective 31***

*Avoidance or mitigation of natural hazards by managing risk for people’s safety and the protection of property and lifeline utilities.*

The supporting policies establish a risk management approach and require the management of risk to result in lower levels of risk or maintain low levels of risk.<sup>29</sup>

With regard to the proposed earthworks and vegetation disturbance, it is noted that;

- > The District Plan identifies the project site as within Coastal Erosion Area – Primary Risk and Rural;
- > The proposal does not include any land use change or development that would increase the risk from coastal erosion, and the proposal directly reduces the risk of coastal erosion to existing residential development,<sup>30</sup> and
- > Davis Coastal Consultants has considered the effects of sea-level rise over a 30, 50 and 100-year period.<sup>31</sup>

For completeness, it is noted that the District Plan maps natural hazard areas and contains provisions which give effect to the RPS. The District Plan provides for coastal hazard

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<sup>29</sup> Policies NH 1B, 2B and 3B.

<sup>30</sup> Policy NH 5B.

<sup>31</sup> Policy NH 11B.

protection as a discretionary activity. The Applicant has lodged an application for the requisite land use consents separately.<sup>32</sup>

Overall, it is therefore considered that the proposal is consistent with the relevant provisions of the RPS.

## 8.7 BAY OF PLENTY REGIONAL COASTAL ENVIRONMENT PLAN (COASTAL PLAN)

Notwithstanding the vehicle use within the CMA, the site is located within the Coastal Environment therefore the Coastal Plan applies. This section assesses the proposal against the relevant objectives and policies of the Coastal Plan.

### Natural Heritage

The relevant Natural Heritage objectives are:

#### **Objective 2**

*Protect the attributes and values of:*

- (a) Outstanding natural features and landscapes of the coastal environment; and*
- (b) Areas of high, very high and outstanding natural character in the coastal environment;*

*from inappropriate subdivision, use, and development, and restore or rehabilitate the natural character of the coastal environment where appropriate.*

#### **Objective 3**

*Safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems by:*

- (a) Protecting Indigenous Biological Diversity Areas A,*
- (b) Maintaining Indigenous Biological Diversity Areas B;*
- (c) Promoting the maintenance of indigenous biodiversity in general; and*
- (d) Enhancing or restoring indigenous biodiversity where appropriate.*

#### **Objective 4**

*Prevent the further loss of the quality and extent of rare and threatened habitats in the coastal environment of the region. These include coastal forest, seagrass beds, saltmarsh wetlands and sand dunes.*

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<sup>32</sup> Policy NH 12A.



### **Objective 5**

*Enable the restoration and rehabilitation of the natural heritage of the coastal environment, including:*

- (a) Kaimoana resources;*
- (b) Natural heritage landforms or features that would increase resilience to natural hazards, and*
- (c) Degraded cultural sites which tangata whenua wish to restore for natural heritage and cultural reasons.*

The proposed activities are consistent with the above objectives because they:

- > Have a functional need to be located in the coastal environment, are of an appropriate form, scale and design to be compatible with the existing sand dune system and will not adversely affect the natural processes or ecological functioning of the CMA;<sup>33</sup>
- > Are not located in an area of Outstanding Natural Character, Features or Landscapes, therefore Policy NH 8 and Policy NH 9 are relevant to the consideration of adverse effects on natural character, natural features and landscape. Significant adverse effects on natural character that is not outstanding are avoided by reinstating the disturbed areas to follow natural contours of the sand dunes and undertaking enhancement planting with indigenous species. This approach is considered consistent with Schedule 4 to the Coastal Plan;<sup>34</sup>
- > Are not located in an area identified as IBDA A. The ecological assessment confirms adverse effects on the ‘northern spinifex foredune’ area which meets the criteria of Policy 11(a)(i) and (iii) of the NZCPS will be avoided;<sup>35</sup>
- > The ecological assessment confirms that there are no significant adverse effects on indigenous vegetation arising from vegetation loss in the ‘southern pohuehue assemblage’ or the ‘central exotic terrace, hollow and riser slope’. Other adverse effects are appropriately remediated and mitigated by replanting of the disturbed area through the implementation of the proposed planting plan which uses indigenous species;<sup>36</sup>
- > The adverse effects on the ecological values of the ‘southern pohuehue assemblage’ and the ‘central exotic terrace, hollow and riser slope’ are avoided. It is also noted that

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<sup>33</sup> Policy NH 1.

<sup>34</sup> Policy NH 5, NH 9 and NH 21.

<sup>35</sup> Policy NH 5.

<sup>36</sup> Policy NH 6, NH 8, NH 11, NH 14 and NH 21.



the site is proposed to be enhanced in a manner which results in a net ecological benefit, and supports resilience to natural hazards provided by sand dunes;<sup>37</sup> and

- > The Applicant has applied relevant Iwi Resource Management Policies, as assessed below.<sup>38</sup>

### Water Quality

With regard to coastal water quality, the following objective is most relevant to the proposed earthworks:

#### **Objective 8**

*Discharges of contaminants to the coastal marine area are managed to meet the following goals:*

- (a) After reasonable mixing, discharges of contaminants meet the water quality classification of the receiving water bodies as a minimum; and have no more than minor adverse effects on aquatic life, habitats, and recreational uses.*
- (b) Discharges of contaminants occur in a manner that recognises and provides for the cultural values of mana whenua acknowledged for that area.*
- (c) Cumulative effects of discharges are managed in a way that recognises the sensitivity and assimilative capacity of the receiving environment.*

The Applicant proposes to avoid the discharge of contaminants into coastal waters by strictly adhering to the proposed construction methodology (refer **Appendix H**). The risk of discharge is managed by:

- > Setting the area of works back from the CMA and the open waters of Three Miles Creek;
- > Ensuring all excavated material is used to cover the structure at the completion of works to mimic the dune form and no material will be placed in the CMA;
- > Ensuring sand and rock stockpiles are stored outside the CMA and the tidally influenced area;
- > Limiting activities in the CMA to only those vehicle movements required to deliver machinery and construction materials; and
- > Ensuring no refuelling occurs within the CMA and refuelling of equipment that cannot readily leave the site will occur outside of areas where a spill could enter water.

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<sup>37</sup> Policy NH 7(a) and (b)(vi).

<sup>38</sup> Policy NH 14.





## Iwi Resource Management

Objectives 13 to 18 relate to Iwi Resource Management. The most relevant of these objectives are:

### **Objective 13**

*Take into account the principles of the Treaty of Waitangi and provide for partnerships with the active involvement of tangata whenua in management of the coastal environment when activities may affect their taonga, interests and values.*

### **Policy IW 1**

*Proposals which may affect the relationship of Māori and their culture, traditions and taonga must recognise and provide for:*

- (a) Traditional Māori uses, practices and customary activities relating to natural and physical resources of the coastal environment such as mahinga kai, mahinga mātaimai, wāhi tapu, ngā toka taonga, tauranga waka, taunga ika and taiāpure in accordance with tikanga Māori;*
- (b) The role and mana of tangata whenua as kaitiaki of the region's coastal environment and the practical demonstration and exercise of kaitiakitanga;*
- (c) The right of tangata whenua to express their own preferences and exhibit mātauranga Māori in coastal management within their tribal boundaries and coastal waters; and*
- (d) Areas of significant cultural value identified in Schedule 6 and other areas or sites of significant cultural value identified by Statutory Acknowledgements, iwi and hapū resource management plans or by evidence produced by tangata whenua and substantiated by pūkenga, kuia and/or kaumatua; and.*
- (e) The importance of Māori cultural and heritage values through methods such as historic heritage, landscape and cultural impact assessments.*

### **Policy IW 4**

*The following shall be taken into account during decision-making:*

- (a) The consistency of the proposal with any iwi or hapū resource management plan recognised by an Iwi Authority and lodged with the Regional Council that applies to the area affected;*
- (b) Recognition provided under any other legislation – including but not limited to: Treaty of Waitangi settlements; gazetting of Rohe Moana and Mātaimai under the Kaimoana Customary Fishing Regulations 1998 and the customary rights recognitions available under the Marine and Coastal Area (Takutai Moana) Act 2011 and*
- (c) The principles of Te Tiriti o Waitangi (the Treaty of Waitangi), recognising that these will continue to evolve and be defined.*



As noted above, GIPS have extended invitations to engage with mana whenua who have an interest in Waihi Beach to understand their relationship with the project area, and how their relationship can be recognised and provided for, as well as their role as kaitiaki.

The proposal has been developed taking into account the mātauranga-based policy-framework articulated in the Tauranga Iwi Management Plan 2016-2026, as detailed further in Section 8.9.

The Applicant has, from a western science perspective, sought to avoid and remedy adverse effects on values of the coastal environment, including by protecting water quality of coastal and freshwaters and enhancing indigenous biodiversity values. The Applicant proposes to implement an Accidental Discovery Protocol to prudently manage the risk of unearthing kōiwi or other wāhi tapu during earthworks.

### **Coastal Hazards**

The relevant Coastal Hazard objectives are:

#### **Objective 20**

*Coastal communities are aware of risks from natural hazards, and mitigation actions are in place to enhance the resilience of existing and future communities.*

#### **Objective 21**

*Development and activities in the coastal environment are managed to take account of the dynamic nature of coastal processes.*

#### **Objective 22**

*Development is managed to recognise the future effects of climate change and to maintain or enhance the natural biological and physical processes which occur in the coastal environment.*

#### **Objective 23**

*Recognise and provide for the protection and enhancement of natural defences to coastal hazards*

With regard to the above objectives, it is noted that:

- > The proposal is consistent with the relevant policies of the NZCPS and RPS, as assessed above;<sup>39</sup>
- > The proposal maintains and enhances the sand dunes that provide a natural defence from coastal hazards. The sand dunes will be recontoured to replicate a natural form

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<sup>39</sup> Policy CH 1, Policy CH 9.



and planted with native sand dune plant species. Existing public walking access will be retained throughout the works and following their completion;<sup>40</sup> and

- > Coastal erosion and inundation hazard zones have been identified with respect to the project site.<sup>41</sup>

### **Activities in the CMA**

Part Four of the Coastal Plan contains policies specific to activities in the CMA. The only activity proposed to occur within the CMA is the use of vehicles for the sole purpose of providing access to a site outside the CMA for the delivery of machinery, rock, material and plantings.

Objectives and policies relevant to disturbance of the CMA for providing vehicle access are:

#### **Objective 27**

*Activities and structures that depend upon the use of natural and physical resources in the coastal marine area, or have a functional need to be located in the coastal marine area are recognised and provided for in appropriate locations, recognising the positional requirements of some activities.*

#### **Objective 42**

*The generation of unreasonable levels of noise or light in the coastal marine area is avoided.*

#### **Policy RA 4**

*Public walking access along the coastal marine area may only be restricted in the following situations, and where it is restricted the restriction should cover as small an area as possible and alternative access routes or methods should be provided:*

...

- (f) To protect public health or safety, having regard to land use and land-based activities occurring adjacent to the coastal marine area;...*

#### **Policy DD 2**

*Restrict the use of vehicles on the foreshore and seabed to those which have a legitimate need to use such areas.*

#### **Policy DD 7**

*Activities that cause disturbance of the foreshore and seabed shall:*

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<sup>40</sup> Policies CH6 and CH 7.

<sup>41</sup> Policy CH 14.



- (a) *Be undertaken at times of the day or year and using methodologies, that will avoid significant adverse effects and remedy or mitigate other adverse effects on the environment, particularly on:*
- i) *The feeding, spawning and migratory patterns of indigenous fauna, including bird roosting, nesting and feeding, and whitebait runs;*
  - ii) *Indigenous ecosystems and habitats that are particularly vulnerable to modification, including: estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh; and*
  - iii) *Habitats of indigenous species that are important for recreational, commercial, cultural or traditional purposes, including traditional Māori gathering, collection or harvest of kaimoana; and*
- (b) *Ensure that the foreshore or seabed is, as far as practicable, reinstated in a manner which is in keeping with the natural character and visual amenity of the area;*
- (c) *Avoid significant adverse effects on biota caused by the release of contaminants; and*
- (d) *Be undertaken at times of the day or year, and using methodologies, that will avoid as far as practicable, remedy or mitigate adverse effects on:*
- i) *Recreational use of the coastal marine area; and*
  - ii) *Other lawfully established activities in the coastal marine area.*

Vehicle access through the CMA is required to provide site access for machinery and the delivery of rock and materials for the coastal erosion protection structure and enhancement planting. The proposed route is the only practicable option because:

- > DoC reserve land to the south of the proposed earthworks is vegetated sand dune which is identified as IBDA-B1. The proposed route avoids disturbance of this sensitive habitat and potential adverse effects on that duneland.
- > WBOPDC Reserve land on the true right bank is too narrow and does not provide a formed access to Seaforth Road.
- > Due to the presence of groynes on the left and right banks of Three Mile Creek, vehicles must cross the CMA to access the project site from the north.

It is therefore considered that vehicles accessing the site have a functional and legitimate need to use the CMA. Where the provision of vehicle access may temporarily impact public access along the CMA, this is considered appropriate for the purpose of protecting public health and safety.



With regard to the disturbance of the foreshore that may arise due to vehicle use in the CMA, it is noted that:

- > Access is restricted to an excavator which will be left onsite for the duration of the works, and a pneumatic tyred tractor and tipping trailer unit for delivery of materials;
- > Vehicle movements will be managed to take a direct route to minimise disturbance;
- > Any disturbance caused, such as vehicle tyre tracks, are anticipated to be restored by natural processes within 7 days;
- > Machinery will be clean to the extent practicable and will be free of any leakage of petrochemicals;
- > No vehicle or machinery refuelling, or maintenance will occur within the CMA.

It is also noted that this is the same access point and route use by WBOPDC contractors who undertake regular (approximately monthly) maintenance works within Three Mile Creek and the CMA area.

With regard to noise and light, while the proposed construction activities are not occurring within the CMA, there is potential for these activities to give rise to noise effects in the CMA. However, the noise trial undertaken by the Applicant (**Appendix I**) confirms that the proposal will comply with permitted construction noise standards in the District Plan. The Applicant also proposes to monitor noise and vibration during the project and update the construction methodology as required to ensure unreasonable levels of noise is avoided.

Overall, it is therefore considered that the proposal is generally consistent with the relevant provisions of the Coastal Plan.

## **8.8 BAY OF PLENTY REGIONAL NATURAL RESOURCES PLAN (REGIONAL PLAN)**

This section assesses the proposal against the relevant Regional Plan objectives and policies.

### **Kaitiakitanga**

The most relevant objectives relating to kaitiakitanga are:

#### ***KT 04 (Objective 4)***

*The water, land and geothermal concerns of tangata whenua are taken into account and addressed as part of resource management processes, while recognising that different iwi and hapu may have different concerns or practices.*



### **KT 05 (Objective 5)**

*Water, land and geothermal resource management decisions have regard to iwi resource management planning documents.*

The proposed earthworks and vegetation disturbance is consistent with the above objectives, noting that GIPS have extended invitations to engage directly with mana whenua interested in Waihi Beach to understand their connection to the project area, and to provide the opportunity for their relationship and role as kaitiaki to be recognised and provided for.<sup>42</sup>

The proposal has been designed with respect to the mātauranga-based policy framework outlined in the Tauranga Iwi Management Plan 2016-2026, as elaborated in Section 8.9.<sup>43</sup>

From a western science perspective, the Applicant has sought to prevent and address negative impacts on the coastal environment, focusing on preserving water quality in both coastal and freshwater systems and enhancing indigenous biodiversity. Proposed enhancement planting is considered to provide a net ecological benefit. Additionally, the Applicant has proposed the implementation of an Accidental Discovery Protocol during construction to manage the risk of encountering kōiwi or other wāhi tapu during earthworks.

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### **Integrated Management**

With regard to Policy IM P1(e), it is noted that regard has been given to the relevant policies of the Coastal Plan. Assessment of the relevant provisions is recorded in Section 8.7 above.

### **Land Management**

The relevant Land Management objectives are:

#### **LM 01 (Objective 9)**

*Land use and land management practices are appropriate to the environmental characteristics and limitations of the site, and avoid, remedy or mitigate adverse effects on the life-supporting capacity of soil resources, the receiving environment and heritage values.*

#### **LM 03 (Objective 19)**

*Protect vulnerable areas from erosion.*

#### **LM 05 (Objective 21)**

*Maintain and improve the protective function of coastal sand dunes.*

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<sup>42</sup> Policy KT P13 (Policy 13)

<sup>43</sup> Policy KT P17 (Policy 17)

<sup>44</sup> Policy KT P5 (Policy 5) and Policy KT P11 (Policy 12).



With regard to the above, it is noted that the proposal:

- > Has benefited from an ecological and landscape effects assessment to understand the baseline values of the site and to inform design of the proposal and its construction methodology;
- > Is associated with works to protect WBOPDC reserve land and the adjacent private properties on Glen Isla Place from coastal erosion and natural hazards; and
- > Includes enhancement planting of the Glen Isla sand dunes to maintain and improve the protective function of these sand dunes that will result in a net ecological benefit.

### Discharges

The relevant objectives and policies are:

**DW O13 (Objective 35)**

*Stormwater is discharged to land, where appropriate.*

**DW O15 (Objective 37)**

*Stormwater discharges avoid, remedy or mitigate adverse effects on the ecological, natural character, landscape, recreational, and Māori cultural values of streams, rivers and lakes.*

**DW P15 (Policy 51)**

*To require the appropriate management of stormwater quality, including:*

- (a) The use of source controls to avoid the contamination of stormwater.*
- (b) The use of best practicable options.*
- (c) Treatment of stormwater to prevent the contamination of receiving environments.*

As noted in Section 5 above, stormwater discharges associated with proposal will comply with the permitted conditions of Rule DW R22.

It is acknowledged that the site is atypical with regard to earthworks and typical silt control measures. The use of silt fences seaward of the site are necessary nor practicable as they would likely be affected by the tides and adversely affect public access. The Applicant therefore proposes to manage stormwater quality by:

- > Ensuring stormwater landside of the earthworks site does not discharge through the site; and
- > Ensuring machinery refuelling and maintenance does not occur within the CMA and only in accordance with the proposed Construction Methodology (**Appendix H**).

Overall, it is therefore considered that the proposal is consistent with the relevant provisions of the Regional Plan.



## 8.9 TAURANGA MOANA IWI MANAGEMENT PLAN 2016-2026: A JOINT ENVIRONMENTAL MANAGEMENT PLAN FOR NGĀTI RANGINUI, NGĀI TE RANGA AND NGĀTI PŪKENGĀ

The Tauranga Moana Iwi Management Plan is the collective voice of Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga as it relates to Tauranga Moana: Te Awanui (Tauranga Harbour), surrounding lands and waters, including the CMA from Ngā Kuri-a-Whareī in the north-west to Wairakei Stream in the south.

The collective vision for Tauranga Moana is:

*Tauranga Moana Iwi and hapū work together and are actively involved in restoring and enhancing the mauri of Tauranga Moana.*

For local authorities and plan users, the Plan is intended to influence resource management documents and processes, articulate expectations regarding engagement, and build cultural awareness and understanding.

It is the opinion of the Applicant that the proposal is consistent with the relevant objectives and policies for the reasons summarised below.

The provisions of section 6 relate to Tūhauora Tinana: Healthy Waters and emphasise:

- > Restoration and protection of the mauri of Te Awanui and coastal areas;
- > Avoidance of the degradation of water quality; and
- > Reduction of the impacts of sedimentation on Te Awanui.

The proposal is located outside the CMA and Te Awanui / Tauranga Moana and the proposed methodology will ensure that the earthworks do not result in sediment or other contaminants entering the CMA, such that mauri of these coastal waters will be protected.

The provisions of Section 7 (Tūhauora Whenua: Healthy Land) emphasise the protection, and where possible enhancement, of the mauri of land.

The proposed works will ensure the health of the sand dune habitat is enhanced by undertaking planting of native dune plants species following the completion of works.

With regard to Tūhauora Wairua: Cultural Heritage (Section 8) and Tūhauora Whanau: Our People and Relationships (Section 9), the Plan seeks to:

- > Recognise and protect traditional sites, areas, landscape and practices of cultural and spiritual significance;
- > Empower Tauranga Moana Iwi and hapū to participate in resource management process and decisions; and
- > Emphasise the importance of active involvement and effective working relationships.





As set out in Section 7.2, the Applicant has extended the offer of engagement to iwi, hapū and marae with an interest in Waihi Beach to recognise the importance of active involvement and participation in resource management processes. Acknowledging that none of these offers have been taken up by any party, the intent of this engagement is to understand the connection of iwi, hapū and marae to the project area, and to ensure their relationship is and role as kaitiaki is recognised and provided for.

The Applicant acknowledges that effects on cultural values will continue to be considered where engagement with mana whenua continues.

## 8.10 CUSTOMARY MARINE TITLE PLANNING DOCUMENTS

Section 104(2B) of the RMA requires:

*When considering a resource consent application for an activity in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a consent authority must have regard to any resource management matters set out in that planning document.*

There are currently several hundred applications for recognition of Coastal Marine Title (“CMT”) before the High Court under the MACAA, as well as direct negotiations being conducted with the Crown.

The CMT applications which specifically include the project site and the open coast at Waihi Beach are yet to be heard or decided. Therefore, there are no CMT planning documents which affect the proposal.

As noted in Section 7.2 above, the following applicant groups seeking a customary marine title under the MACAA have been sent a copy of the proposal in accordance with section 62A of the MACAA:

- > Ngati Whanaunga;
- > Ngati Hako;
- > Ngati Pukenga;
- > Nga Hapu o Ngati Ranginui Settlement Trust;
- > Ngati Tara Tokanui;
- > Ngai Te Rangji; and
- > Nga Hapu o Ngai Te Rangji.

Where responses are received and where those responses are relevant to the proposal, the views obtained from the applicant groups will be provided to BOPRC.



## 9. ASSESSMENT AGAINST PART 2 OF THE RMA

It is noted that case law in the Court of Appeal decision on *RJ Davidson Family Trust v Marlborough District Council 2018 NZCA 316* determined that:

*“If a plan that has been competently prepared under the Act it may be that in many cases the consent authority will feel assured in taking the view that there is no need to refer to pt 2 because doing so would not add anything to the evaluative exercise. Absent such assurance, or if in doubt, it will be appropriate and necessary to do so. That is the implication of the words “subject to Part 2” in s 104(1), the statement of the Act’s purpose in s 5, and the mandatory, albeit general, language of ss 6, 7 and 8.”*

This decision confirms that it can be appropriate to consider Part 2 when assessing a resource consent in specific circumstances but otherwise an assessment against Part 2 will not add to the evaluative exercise. In this instance, the application is a Discretionary Activity under the Regional Plan and the Coastal Plan.

A comprehensive assessment has been provided against the relevant objectives and policies the NZCPS, RPS, Regional Plan and Coastal Plan, all of which have been prepared having regard to Part 2. It is relevant that the RPS includes objectives and policies which relate directly to Part 2 matters and was changed to give effect to the NZCPS in 2015, and the Coastal Plan was made operative on 3 December 2019.

In this circumstance then, it is considered that an assessment against Part 2 would ‘not add anything to the evaluative exercise’ and is not therefore necessary.



## 10. NOTIFICATION

As a discretionary activity, notification of this application needs to be considered in accordance with tests set out in sections 95A and 95B of the RMA.

### 10.1 PUBLIC NOTIFICATION

Section 95A of the RMA sets out that a consent authority may, in its discretion, decide whether to publicly notify an application. However, in this case it is considered there are no circumstances that warrant public notification.

Step 1 - Mandatory public notification:

- > The Applicant does not request public notification of the application (s95A(3)(a)).
- > The application does not include an exchange of recreation reserve land (s95A(3)(c)).

Step 2 - Public notification precluded:

- > Public notification is not precluded by any rule or national environmental standard (s95A(5)(a)).
- > The application is for a discretionary activity. Therefore, public notification is not precluded as the preclusion section in s95A(5)(b) does not apply.

Step 3 - Public notification required in certain circumstances:

- > There are no rules or national environmental standards that require public notification in s95A(8)(a).
- > For the reasons set out in the Section 6 in this report, the activity is expected to have adverse effects on the environment that are no more than minor (s95A(8)(b) and s95D).

Step 4 - Public Notification in special circumstances:

- > The Applicant considers that there are no special circumstances in relation to this application.

### 10.2 LIMITED NOTIFICATION

Section 95B of the RMA sets out that a consent authority must determine whether to give limited notification of an application. Section 95B(1) of the RMA requires a consent authority to determine whether to give limited notification of an application if it is not publicly notified under s95A. Limited notification is assessed against section 95B of the RMA as below.

Step 1 - Certain affected groups and affected persons must be notified (s95B(2)):



- > Limited notification is not required under Step 1 as there are no affected protected customary rights groups or affected customary marine title groups.
- > The site is not located within a Statutory Acknowledgment Area.

Step 2 - If not required by Step 1, limited notification precluded in certain circumstances:

- > Limited notification is not precluded under Step 2 as the proposal is not subject to a rule in the District Plan or an NES that precludes notification, and it is not for a controlled activity.

Step 3 - If not precluded by Step 2, certain other affected persons must be notified:

- > The proposal is not a boundary activity and therefore s 95B(7) is inapplicable.
- > The proposal therefore falls into the 'any other activity' category and the consent authority must determine under s95E if there are any other affected persons. The Applicant considers that the assessment provided in Section 6 of this AEE indicates that there are no affected persons.

Step 4 – Special circumstances:

- > The Applicant considers there are no “special circumstances” that warrant limited notification of the application to any person.

Based on the foregoing, limited notification of the application is not required.

### **10.3 NOTIFICATION CONCLUSION**

As set out in Section 6, the actual and potential adverse effects of the proposal are expected to be predominantly positive and, for the purposes of s95E, less than minor.

Based on the effects assessment relevant to the BOPRC consenting matters, it is the Applicant’s opinion that there are no person(s) who would be adversely affected by the proposal.

As such, the Applicant considers the resource consent application to BOPRC can be processed on a non-notified basis.



## 11. CONCLUSION

GIPS seek a coastal permit for the use of vehicles in the CMA and land use consent for earthworks, land disturbance and vegetation removal associated with the construction and establishment of a buried coastal protection structure at the Glen Isla dune, adjacent to private properties at 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place, Waihi Beach.

At the completion of construction, the approximately 200m long coastal protection structure would be completely buried with sand and recontoured and revegetated with indigenous dune species, to present as a natural dune face upon completion.

The proposed land disturbance and vegetation removal is appropriately located outside of the CMA and designed to avoid and minimise potential adverse effects on coastal processes and high value indigenous flora. Soft protection elements have been incorporated into the proposal, including the contouring and revegetation of dune faces with indigenous biodiversity, which will contribute to a net ecological benefit and positive effects on natural character, landscape and visual amenity values.

The proposed disturbance of the foreshore from the movement of vehicles through the CMA is considered the best practicable option. While not explicitly provided for as such, the activity will comply with permitted standards of the Coastal Plan and any use of this area will be temporary in nature.

Construction phase effects of the proposal, such as construction discharges and dust effects, are considered to be appropriately managed by the timing of the works and proposed construction methodology.

A comprehensive suite of assessments has been undertaken to support the resource consent application. The conclusions from these assessments are summarised in Section 6.

Overall, the proposal has been developed to be consistent with the relevant provisions of the NZCPS, RPS, Coastal Plan and Regional Plan, in that it avoids significant adverse effects, appropriately minimises or mitigates other effects, and provides for the protection and restoration of natural character at the coast.

In summary, for the reasons set out in this assessment of environmental effects, the Applicant considers that there are no impediments to granting a coastal permit and a land use consent for the proposed works without notification of the application.





## **APPENDIX A**

Records of Title



## **APPENDIX B**

Coastal Process Assessment (Davis  
Coastal Consultants)



## **APPENDIX C**

Landscape and Visual Effects  
Assessment (Isthmus Group)





## **APPENDIX D**

Ecological Effects Assessment  
(BlueGreen Ecology)



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## **APPENDIX E**

Memorandum – Location of Mean  
Highwater Springs, Glen Isla Place,  
Waihi Beach  
(Davis Coastal Consultants)



## **APPENDIX F**

Engineering Design Report (Davis  
Coastal Consultants)



## **APPENDIX G**

Glen Isla Place Tree Protection Plan  
(Arbor Care Ltd)



## **APPENDIX H**

Construction Methodology (Davis  
Coastal Consultants)



## **APPENDIX I**

Noise Trial Report (Marshall Day  
Acoustics)



## **APPENDIX J**

Glen Isla Place Residents – Project  
Summary Documents



## **APPENDIX K**

Copy of Letter Sent to MACAA  
Applicants