

IN THE MATTER

**of the Resource Management
Act 1991**

AND

**an application by Gisborne
District Council**

FOR

**Proposed Coastal Protection
Works at Wainui Beach**

STATEMENT OF EVIDENCE (PLANNING)

Todd Whittaker

For Consent Authority

8 February 2018

1 INTRODUCTION

1. My name is Todd Whittaker and I am an independent planning consultant. My professional experience and acknowledgement of my professional conduct obligations are provided in the Section 42A report which I prepared for the application and which was issued on 12 January 2018.
2. I have prepared this statement to complete my assessment and recommendations of the application taking into account the additional material which has been presented and heard since the completion of my earlier report.
3. In summary, I have not reviewed or heard any new information or evidence which would lead me to change my original assessment and substantive recommendation on the application.

2 SCOPE OF EVIDENCE

4. My full assessment of the application and recommendation are contained in the Section 42A report and I do not intend to repeat the content of that report.
5. This statement will cover the topics;
 - Response to the applicant's technical evidence,
 - Coastal Hazards And Climate Change - Guidance For Local Government (Ministry For The Environment) December 2017
 - Response to matters arising from submissions
 - Discussion on Conditions
 - Conclusion and Recommendations

3 APPLICANT'S EVIDENCE

6. Evidence has been prepared for the applicant by Mr Reuben Hansen (Planning Evidence) and by Dr Tom Shand (Coastal Engineering).
7. It is appropriate for me to provide some brief comments on the evidence and the areas where there is some difference of opinion. In providing these comments, I have also taken into account the Statement of Evidence prepared by Dr Willem de Lange dated 1 February 2018 and I have also had input from Council's Mr Paul Murphy in relation to the consent conditions.
8. Overall, there are many areas where common ground exists between myself and Mr Hansen in terms of the application for the coastal protection works. Common ground exists in terms of the statutory framework, relevant plan and policy provisions and across much of our respective assessment of environmental effects.
9. Where Mr Hansen and I do have a difference of opinion, is essentially around the design of the proposed revetment wall and whether this is the most appropriate design option taking into account the national, regional and district planning instruments.
10. With respect to the technical evidence, Dr Shand on behalf of the applicant has helpfully provided additional background and justification for the design of the revetment wall. This includes reference to the design assumptions and limitation that exist in terms of alternative design options. Dr de Lange has provided some commentary on this evidence and retains some reservations over the assumptions that support the revetment wall design.
11. In my view, the proposed revetment wall adopts a design which reflects good engineering design standard, however it fails to take into account the policy direction for hard protection structures and that its purpose is only to provide an appropriate standard of coastal protection over a relatively short period.

12. Dr Shand has identified the potential issues with redesigning the revetment wall in terms of its ability to withstand larger storm events and also that any alternative design would provide limited benefits in terms of the footprint and profile of the proposed revetment wall. Clearly, if a new revetment wall is constructed, it must provide reasonable and appropriate protection to justify the cost of the works.
13. The concern that I have with the design is that its design assumption and standard will in my opinion elevate its purpose to being the primary response or management mechanism to coastal erosion for the Tuahine Street properties and that this is not consistent with the national and regional policy directives. In addition, this reliance on hard protection works would not be consistent with other works and structures along Wainui Beach.
14. Mr Hansen and myself have different views on whether the proposal is consistent with the planning instruments and policies. In my opinion, the New Zealand Coastal Policy Statement sets a very high threshold for hard protection structures, particularly those structures which are designed to primarily protect private property and assets. This national policy direction is further elaborated upon through the regional and district planning instruments.
15. In terms of the Wainui Beach Erosion Management Strategy (WBEMS), a replacement wall is identified as an appropriate short-term response. The WBEMS goes on to state;

The new structure should however be designed to minimise the seaward encroachment over the beach – ideally trying to stay as close to the footprint of the existing wall as practicable, while providing appropriate erosion protection over the same life time as the existing revetment, and be as short as practicable¹.
16. In my opinion, the current design does not satisfy the direction and qualifications which are identified within the WBEMS for the revetment wall.

¹ WBEMS, page 16, paragraph 5.

4 COASTAL HAZARDS AND CLIMATE CHANGE - GUIDANCE FOR LOCAL GOVERNMENT (MINISTRY FOR THE ENVIRONMENT) DECEMBER 2017 (MfE GUIDANCE)

17. In my S.42A report I did not refer to the above MfE Guidance which was issued in December 2017.
18. Mr Hansen addresses the MfE Guidance material and outlines how the MfE Guidance material promotes a ‘dynamic adaptive pathway (DAP) approach and that the draft conditions which include decommissioning conditions would contradict this approach.
19. The MfE Strategy is a comprehensive document containing in excess of 250 pages and provides guidance to assist local government with the management of coastal hazard risks. In my opinion, much of the work that GDC has already undertaken to identify coastal hazard risks, develop resource management rules and policies for these areas, and through consultation and engagement directly with the Wainui Beach community is very much consistent with the MfE Guidance.
20. Furthermore, GDC has sought a 25 year term for the proposed revetment wall which also recognises that the management of coastal hazards and risk cannot simply rely on hard protection works. The condition for decommissioning is only to recognise that should the consent expire then works will be required to remove the structure and rehabilitate the site at that time. Should any new consent be granted, then this condition would not be required to be implemented.

4 SUBMISSIONS

21. As discussed in the S.42A report, there is a wide range of views expressed both in support and in opposition to various components of the application.

22. With the decision by GDC to remove the sand push up component of the original application, a number of submitters have sought to amend their submissions.
23. While submitters can amend their submission to recognise any changes in the application, submitters are limited to the matters that are within the scope of their submission and also the scope of the application. It appears that some submitters are seeking further direction from GDC in terms of the management of hazard risks along the whole of Wainui Beach. This matter is outside the scope of the application and will need to be reviewed as part of any future community engagement regarding the policies and approach to coastal hazard management at Wainui Beach.

4 CONDITIONS

24. A draft set of conditions were issued with the S.42A report. GDC has made comments on these conditions and has recommended a number of relatively minor amendments.
25. An amended set of conditions is attached to this statement which takes into account the requested changes from GDC.
26. It should be noted that these conditions have been prepared to assist the Commissioner should you be mindful to grant consent. The reservations that I have with regard to the design of the revetment wall in my opinion cannot be addressed through consent conditions.

5 CONCLUSION AND RECOMMENDATION

27. In writing the S.42A report, I was not satisfied that the proposed design of the revetment wall was necessary or appropriate in terms of the national, regional and district planning instruments.
28. As GDC has not been able to provide an alternative design, then the current proposal must be assessed and determined on its merits. I do not consider that the proposal can be conditioned to require an alternative design as this would essentially frustrate the proposal which has been submitted by GDC.
29. As such, I remain unconvinced that the specific design of the revetment wall should be granted. however I am comfortable with consent being granted to the proposed gabion basket works.
30. Proposed conditions are attached to assist the Commissioner with the type of conditions that may be applied should consent be granted for both the proposed rock revetment wall and the gabion basket works.



Todd Whittaker (MNZPI)
Independent Planning Consultant
8 February 2018

**Wainui Beach Coastal Protection Works
Draft Conditions of Consent (Planning Statement of Evidence 8 February 2018)**

The track change shows the amendments made from the S.42A draft set of conditions.

General Conditions

1. The proposed coastal erosion works authorised by this consent are limited to;
 - The replacement section of rock revetment wall along the coastal boundary of 2,4, 6 and 8 Tuahine Crescent, the local purpose reserve (Lot 16 DP 3216) and esplanade reserve (Lot 14 DP 3216) located adjacent to Tuahine Crescent and
 - The gabion basket works along the coastal boundary of 21 Wairere Road, including retention of the existing gabion basket structure and removal of the rock which has been placed on the dune face above the gabion basket.

2. The design of the structures and construction works shall be undertaken in general in accordance with the following documents and material;
 - The Resource Consent Application and AEE Report prepared by Tonkin and Taylor dated May 2017 (Ref 1000724)
 - The Resource Consent Engineering Report prepared by Tonkin and Taylor dated May 2017 (Ref 1000724)
 - Drawings 'Gisborne District Council Wainui Beach Coastal Protection Works (Consent Issue) Drws 1000724- 01 to 04 dated May 17.
 - [Amended Drws/Hearing material]

unless otherwise amended by the following conditions of consent.

3. The consent holder shall pay the Gisborne District Council any administration, inspection or monitoring charges fixed in accordance with S36(1) of the Resource Management Act 1991.

4. Where a conflict arises between any conditions of this consent and the application, the conditions of this consent will prevail.

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

Term of Consent

6. ~~Pursuant to section 125(1) of the RMA, the~~ The consent shall ~~expire~~ lapse for the rock revetment works; either 25 years from the date of its commencement (pursuant to section 116(5), ~~or~~ by February 2042, whatever is the earliest date.

7. Pursuant to section 125(1) of the RMA, the The consent for the gabion basket works shall ~~expire~~ lapse 5 years from the date of its commencement (pursuant to section 116(5) of the RMA).

Cultural Protocols Archaeological Site Conditions

8. The Consent Holder shall establish and agree written protocols with Ngati Porou/Ngati Oneone in relation to any cultural practices to be observed during construction works and specifically in relation to the accidental discovery of heritage artefacts and/or koiwi. The protocols shall be made available to the consent authority at least 10 working days prior to works commencing.
9. In the event of any site, waahi tapu, taonga or koiwi being discovered during the works authorised by this consent, the Consent Holder shall immediately cease work at the affected site and secure the area. The Consent Holder shall contact the Council to obtain contact details of the relevant hapu and /or marae. The consent holder shall then consult with the appropriate tribal entities and Heritage New Zealand Pouhere Taonga, and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga and appropriate tribal entity approvals (including associated affected party approvals) to damage, destroy or modify such sites have been obtained.

Construction Management Plan (CMP)

10. At least 2 weeks ~~1 month~~ prior to the works commencing, the Consent Holder shall submit to the Consents Manager, Gisborne District Council, for certification, a Construction Management Plan (CMP) prepared by a suitably qualified and experienced person(s). The CMP shall outline the environmental management and monitoring measures to be installed prior to and maintained during construction works and shall address, but not be limited to the following;
- Compliance with all consent conditions
 - Sediment and erosion control measures and water quality management
 - Management and stabilisation of works in relation to tide and weather conditions
 - Machinery and truck refuelling and maintenance
 - Contingency plans
 - Stockpile management
 - Waste management and disposal
 - Vehicle and machinery access management within the coastal marine area
 - Public notice information and signage
 - Public health and safety measures
 - Vigilant attention to weather forecasting to prevent commencing work close to the arrival of coastal storms or extreme weather events, and undertaking construction in discrete stages

11. the Consents Manager, Gisborne District Council, and written confirmation from the Consents Manager, Gisborne District Council has been received. The consent authority will endeavour to have the certification process completed within 10 working days (excluding any periods where additional information is sought from the consent holder)
12. The Consent Holder may amend the CMP provided under condition 10, at any time by submitting the amended plan for approval to the Consents Manager, Gisborne District Council, for certification, following the same process outlined in Condition 11 above. Construction activities subject to the amendment shall not commence until the amendment has been certified by the Manager, Gisborne District Council

Construction Methodology and Conditions

13. The consent holder shall notify water.info@gdc.govt.nz of the intention to begin works at least 3 working days prior to the exercise of this consent. Where works are to be undertaken again having been discontinued for more than seven consecutive working days Council shall be re-notified.
14. All noise from construction shall comply with the following criteria for long term construction activities at the boundary of any residential site:

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

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

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

General vibration	Time Ma	Maximum Weighted Vibration Level (Wb or Wd)
	0600- 1800 hours Monday to Saturday	45mm/s ²
Construction Vibration	Time Ma	Maximum Weighted Vibration Level (Wb or Wd)
	0600-1800 hrs Monday – Saturday	60mm/s ²
	At all other times	15mm/s ²

16. All vehicles involved in the exercise of this permit shall be inspected daily prior to entering the coastal marine area for leaks or other sources of contaminants. Evidence of this inspection shall be recorded in a log book and shall be made available to the consenting authority on request.
17. ~~Works shall only occur during low tidal conditions, three hours either side of low tide~~ Work involving the disturbance of the intertidal area of the Coastal marine Area to construct the rock revetment wall authorised under this consent shall only be carried out when the intertidal area (above sea level at the time).
- ~~18. Works are to occur during favourable weather conditions and fine weather forecast.
[Note: this condition has been superseded by amendments to Condition 10]~~
- ~~19. Sediment control measures shall be in place at all times when there is an exposed dune face.
[Note: this condition is a double up of requirements under Condition 10]~~
18. Works shall not cause erosion of the dune face.
19. No sand shall be removed from Wainui Beach.
20. Sediment may be discharged only in conditions and to a degree that does not visibly alter the turbidity of the sea after reasonable mixing.
21. All waste material shall be removed from the coastal marine area and disposed of appropriately.
22. The sites and coastal marine area shall be left in a tidy condition upon completion of works.
23. The consent holder shall identify and submit a plan identifying stockpile areas to the consent authority prior to works occurring.
24. The consent holder shall maintain the access track to the coastal marine area to avoid potential effects on waterbodies and the coastal marine area. Any damage caused to the accessway shall be repaired at the consent holders expense.

25. The consent holder shall arrange a site visit during operations to demonstrate compliance with all consent conditions. The site visit shall be attended by representatives of the Water and Coastal Resources Team, the contractor(s) and consent holder.
26. Machinery shall not be left unattended within the coastal marine area for any period longer than 3 hours.
27. All maintenance and refuelling activities shall be undertaken outside of the coastal marine area. Refuelling and maintenance to extraction and transport machinery must be carried out off site to ensure that any contaminants (such as oil, diesel and petrol) used during the exercise of this consent cannot enter any watercourse.
28. Machinery operators shall be informed in writing and on-site by the consent holder or their agent of the responsibility to not modify any archaeological site that may be uncovered as a result of works and the protocols to be followed in accordance with the documentation required by condition 8 above.
29. Spill kits, appropriate to the nature and scale of the operation, should be available on site to respond to an emergency spill. Machinery operators shall be trained and equipped to recognise and respond appropriately to a spill.

Communications Plan and Public Liaison

30. At least 1 month prior to works commencing, the Consent Holder shall submit to the Consents Manager, Gisborne District Council, for certification, a Communications Plan that sets out procedures detailing how the public and stakeholders will be communicated with throughout the period of the construction works. As a minimum, the Communications Plan shall include:
 - (i) Details of a contact person available at all times during the works. Contact details shall be prominently displayed at the site office so that they are clearly visible to the public at all times;
 - (ii) Methods to consult with surrounding landowners, occupiers, representatives of Ngati Porou/Ngati Oneone, and the local community, which may include:
 - Publications of a newsletter, or similar, and its proposed delivery area;
 - Newspaper advertising;
 - Council website; or
 - Meetings of the WBEM stakeholders group.
 - (iii) A register for recording any public or stakeholder feedback and any incidents or non-compliance in relation to the construction works and conditions of this consent, including the outcome of any investigation or remedial action taken and a schedule of how and when this information will be reported to the consent authority.

31. Construction activities shall not commence until the Communications Plan has been certified by the Consents Manager, Gisborne District Council, and written confirmation from the Consents Manager has been received. The consent authority will endeavour to have the certification process completed within 10 working days (excluding any periods where additional information is sought from the consent holder).

Finished Site Works and Planting Plan

32. Prior to works commencing, the Consent Holder shall submit to the Consents Manager, Gisborne District Council, for certification, a Finished Site Works and Planting Plan which shall include;
- (i) Details of landscape and stabilisation planting/works to be completed along the dune face and the proposed work areas and the timeframe for when the works shall be completed,
 - (ii) Measures to rehabilitate any areas within the CMA which have been affected by the construction works including all access routes to and along the CMA,
 - (ii) Details of ongoing maintenance of any landscape and stabilisation planting/works which shall be undertaken during the term of the consent.

For clarification, any stabilisation and rehabilitation works are not required to provide short or long-term protection from coastal hazards and/or storm events. The works are designed to ensure that the work area is left in a tidy condition with suitable planting and landscaping to maintain the dune face and amenity of the area under non-storm event conditions.

33. The Consent Holder shall be responsible for undertaking the approved planting and rehabilitation works within the agreed timeframes and thereafter shall maintain the site and works for the term of the consent.

Recording and Notifications

34. A daily photographic record of the proposed work sites shall be taken prior to, during the works and at completion showing work progress and control measures. These photos shall be provided regularly to the consent authority throughout the works.
35. The New Zealand Marine Safety Authority (MSA) is to be notified of the protection works prior to the works commencing.
36. The Hydrographic Office is to be notified of the protection works prior to the works commencing.

Decommissioning of Works

[Note: GDC has recommended the deletion of the decommissioning works conditions as on the basis that the conditions should not predetermine the outcome of any future policies or consent decisions which may apply to the rock revetment works. The in intent of the decommissioning works conditions was to ensure that there were conditions applying to the decommissioning of the works should this become necessary. GDC has proposed a condition for a review of options 2 years prior to the expiry of consent. It is considered that this can be accepted under the augier principle and that the decommissioning conditions are only triggered if the consent does expire and no new consent is authorised to retain the works.]

37. At least 2 years prior to the expiry of this resource consent that authorises the construction and use of the rock revetment wall adjacent to Tuahine Crescent, the Consents Holder shall undertake comprehensive investigations to determine the best practicable option for the long-term management of the coastal hazard risk at Wainui Beach. The investigations shall consider the full range of management options available to Council and the Community at the time using the most up to date hazard information data and the application of best practice based risk reduction measures.

This condition has been proposed by the consent applicant and has been imposed as a condition under the augier principle.

38. Should there be a decision by Council to allow this consent to expire, or if no new consent has been granted to retain or modify the proposed rock revetment wall, then at least 6 months prior to the expiry of ~~the~~ this consent for the affected works, the Consent Holder shall submit a plan and methodology for the decommissioning and removal of the works. This shall include the final planting and site works to establish the final profile and vegetation of the dune face. The decommissioning works shall not commence until the plan has been certified by the Consents Manager, Gisborne District Council. The consent authority will endeavour to have the certification process completed within 10 working days (excluding any periods where additional information is sought from the consent holder).
39. Subject to condition 38, any ~~the~~ approved decommissioning works shall be completed within 6 months after the expiry of the consent.
40. The conditions associated with the CMP and the construction works as set out in conditions 10 to 31 shall equally apply to any required ~~the~~ decommissioning works.

Review Condition

41. The Gisborne District Council may serve notice on the permit holder pursuant to S128 Resource Management Act 1991 of its intention to review the conditions of the permit on a monthly basis from the date of issue of the consent for the following purposes:
- (i) To review the effectiveness of the conditions of the permit in avoiding or mitigating any adverse effects on the environment from which the consent holders activity and, if considered appropriate by the consent authority, to deal with such effects by way of further or amended conditions;
 - (ii) To review the appropriateness of conditions in the light of relevant national standards, regulations and guidelines, and the Council's relevant regional plans;
 - (iii) To impose additional, or modify existing, conditions of consent relating, but not necessarily limited to, the matters specified hereunder if necessary to deal with any adverse effect on the environment which may arise from the exercise of this permit and which it is appropriate to deal with at a later date:
 - to require the permit holder to adopt the best practicable option to remove or reduce any adverse effects on the environment;
 - to deal with any adverse effects upon the environment on which the exercise of this consent including water quality, coastal ecosystem health and impacts on coastal birds.