

DESIGNATION CONDITIONS

DEFINITIONS

The following terms within these conditions shall have the following definitions:

“District Council” means the Western Bay of Plenty District Council’s Chief Executive Officer or nominee

“*Diversion control structure*” means the diversion culverts at Fords Cut

“Requiring Authority” means the Bay of Plenty Regional Council

“Project” means the Kaituna River Re-Diversion and Ongatoro/Maketu Estuary Enhancement Project and associated activities

“*Re-diversion channel*” means the new channel to be constructed to enable the diversion of water from the Kaituna River

“Works” means the construction works required to give effect to the Project

“*Tangata Whenua*” for the purpose of this designation, as a minimum, includes the following parties: Ngati Rangiwewehi, Ngati Whakaue ki Maketū, Tapuika, Waitaha, Ngati Makino, Ngati Pikiāo and Ngati Tunohopu.

Notices of requirement

The following Notices of Requirement are authorised by these conditions:

- a) Designation for the construction of boating facilities, enhancement works, earthworks and diversion works; and
- b) Designation for the operation and maintenance of the Project including diversion, enhancement works and boating facilities;

subject to the following conditions:

Plan

The extent of the designations are as shown on the plan titled ‘Designation Plan’, prepared by Opus International Consultants Limited, referenced as Drawing Number 2_1542_115_5235, Sheet Number 21, Revision 4 and dated the 7th of April 2015.

General Conditions 1 to 9 not to be included in the District Plan

1. All Designations

- 1.1A The Requiring Authority shall not withhold its consent to owners of Pt Sec 5 Blk V Te Tumu SD, Sec 1 SO 55944, Lot 1-3 DPS 12129, and Pt Sec 1 Blk VI Te Tumu SD to continue to use their land for the grazing of stock and general farming activities (meaning day to day farming activities including fencing but excluding the construction of new structures) until such time as the works under this Designation are to be implemented. The Requiring Authority agrees to be bound to this condition.

- 1.1B The District Council shall be notified in writing of the intention to commence works at least two months prior to the start of any construction activities on site.
- 1.2 Prior to commencement of works the Requiring Authority or their agent shall arrange and conduct a pre-construction site meeting between itself, the District Council and the primary contractor. At a minimum, the following shall be covered at the meeting:
- (a) Scheduling and staging of the works;
 - (b) Responsibilities of all relevant parties;
 - (c) Contact details for all relevant parties;
 - (d) Expectations regarding communication between all relevant parties;
 - (e) Procedures for implementing any amendments to the management plans submitted;
 - (f) Site inspection;
 - (g) Confirmation that all relevant parties have copies of the contents of this designation document; and
 - (h) All associated erosion and sediment control plans and methodology.
- 1.3 A meeting shall also be held with the directly affected landowners, as well as RD & SF Waterhouse Partnership, Coastguard Maketū, Te Tumu Landowners Group, Vernon Wills, the Chairman of the Papahikahawai Trust, the Manager – Rivers and Drainage and Tangata Whenua representatives to discuss:
- (a) Scheduling and staging of the works;
 - (b) Contact details for all parties: and
 - (c) Expectations regarding communication between all parties.
- 1.4 All operational personnel involved with the works shall be made aware of, and have access to, all designation documents, conditions and schedules applicable to the construction of the Project.

2. **Complaints**

- 2.1 The Requiring Authority shall, upon receipt of any complaint in relation to construction, promptly:
- (i) investigate the complaint;
 - (ii) where appropriate remedy or mitigate the cause of the complaint; and
 - (iii) inform the District Council as soon as practicable, but no later than 48 hours of receiving the complaint, of the details of the complaint and the action taken.
- 2.2 The Requiring Authority shall keep and maintain a complaint register for all aspects of operations in relation to works. The complaints register shall include:
- (i) the date, time and type of complaint,
 - (ii) the cause of the complaint, and

- (iii) the action taken by the Requiring Authority in response to the complaint and steps to prevent a reoccurrence.
- 2.3 The complaints register shall be made available to the District Council at all times on request.
3. **Construction Environmental Management Plan**
- 3.1 At least 20 working days prior to the Requiring Authority granting site possession to the contractor and site establishment works commencing, the Requiring Authority shall submit to the District Council a Construction Environmental Management Plan ('CEMP') outlining the construction activities and all practices and procedures to be adopted in the construction of the Project.
- 3.2 The CEMP shall be verified by independent appropriately experienced and qualified practitioner(s). The certification from the certifier shall confirm that:
- (a) The CEMP adopts the mitigation measures identified in the application documentation and / or otherwise required under the conditions of the consent; and
 - (b) The implementation of the CEMP will appropriately mitigate the anticipated adverse effects of the public work.
- 3.3 Works shall not commence until the certified CEMP described in condition 3.2 has been received and confirmed in writing by the District Council. If written acknowledgement is not provided within 10 working days of the Requiring Authority sending the certification, the verification shall be deemed to be confirmed.
- 3.4 The objectives of the CEMP shall be:
- (a) To ensure that the works achieve compliance with the applicable designation conditions for these activities;
 - (b) To minimise the environmental nuisance effects of the works;
 - (c) To ensure that disturbance is limited to that necessary to undertake the works;
 - (d) To minimise the release of sediment during disturbance to the bed of any waterway;
 - (e) To limit disturbance of the beds and margins of the coastal marine area and waterways to the extent necessary to undertake the works, and to avoid or mitigate adverse effects on the quality and passage of coastal and surface water and aquatic habitat; and
 - (f) To ensure that disturbance does not cause flooding or erosion.
- 3.5 The CEMP will address, as a minimum, the following aspects of the works:
- (a) Timing of the works including construction of the diversion channel inlet construction outside of during whitebait fishing season (15th of August to the 30th of November (inclusive));

- (b) Timing of the closure of Ford Road for the installation of the new the diversion control structure, outside of the period of the 20th of December to the 7th of February inclusive;
 - (c) Working hours; and
 - (d) Restrictions on public access.
- 3.6 The following supplementary management plans shall form subsets of the verified CEMP and must be submitted to District Council concurrently with the CEMP:
- (a) Erosion, Sediment & Dust Control Plan;
 - (b) Construction Traffic Management Plan; and
 - (c) Construction-Flood Management Plan.
- 3.7 In the event of any conflict between designation conditions and CEMP practices and procedures, the designation conditions shall be complied with.
- 3.8 Subject to compliance with condition 3.9, the CEMP may be amended at any time.
- 3.9 Any amendments made to the certified CEMP shall be verified and implemented in the manner required by conditions 3.1, 3.2 and 4.1 of this Designation.

4. Compliance with CEMP

- 4.1 The Requiring Authority shall implement and comply with the CEMP and the Supplementary Management Plans as set out in conditions 3, 5, 7 and 8.

Note: The CEMP prepared in relation to the Bay of Plenty Regional Council resource consents will be the same CEMP as that prepared in relation to the designation submitted to Western Bay of Plenty District Council but will include different supplementary plans specific to the designation.

5. Traffic Management

- 5.1 The Requiring Authority shall submit a Construction Traffic Management Plan ('CTMP') to the District Council for certification at least 15 Working Days prior to commencement of any distinct stages of the works requiring traffic management.
- 5.2 The purpose of the CTMP is to outline the proposed procedures, requirements and standards necessary for managing the traffic effects of the works to achieve the outcomes and standards contained in conditions 5.4 to 5.7 (inclusive).
- 5.3 Construction shall not commence until the Requiring Authority has received District Council's written certification of the CTMP.
- 5.4 In managing traffic during the works, the Requiring Authority shall achieve the following outcomes:
- (a) Minimise the disruption to users of local travel routes;
 - (b) Maintain a safe passage for all travel routes, including road and footpath users affected by the Work;

- (c) The provision of vehicle access to number 83 Ford Road and number 336 Kaituna Road; and
 - (d) The provision of vehicle access for Coastguard Maketu, the R.D. & S.F. Waterhouse Partnership and the barge operator to their moorings and on-shore facilities within Ford's Loop.
- 5.5 The CTMP shall be consistent with the version of the New Zealand Transport Agency Code of Practice for Temporary Traffic Management (COPTTM) which applies at the time the CTMP is prepared. Where it is not possible to adhere to this standard, the COPTTM's prescribed Engineering Exception Decision (EED) process will be followed, which will include appropriate mitigation measures agreed with the District Council.
- 5.6 The CTMP shall, as a minimum, address the following aspects of construction traffic:
- (a) Construction sequence and methodology for all traffic activity associated with the Project;
 - (b) Hours of operation, including times and days when traffic-generating activities would occur;
 - (c) Description of the types of vehicles that will be used on public roads;
 - (d) Details and locations of where works will occur within the road reserve and the method of traffic management control to be used;
 - (e) Management strategies where full compliance with safety standards may not be achieved, including active control of traffic at locations where full safe stopping distances cannot be achieved for the temporary traffic volumes expected;
 - (f) Description of routes for haulage of materials on public roads, and measures for ensuring the road network is maintained in a satisfactory condition;
 - (g) How provision will be made for access to affected properties during construction;
 - (h) Temporary work-site access arrangements;
 - (i) Procedures for liaison between the community, the Requiring Authority, the contractor and the relevant road controlling authorities about traffic related matters;
 - (j) Monitoring of road closures and deviations to ensure that excessive disruption or traffic hazards are not created;
 - (k) Monitoring of hazardous traffic conditions arising from dust on public roads; and
 - (l) On-going monitoring of traffic conditions to ensure road safety is maintained.
- 5.7 The Requiring Authority shall take the best practicable option to avoid the deposit of debris onto public roads during the construction period. Any facilities required to achieve this outcome shall be installed prior to works commencing.

6. Construction Noise

- 6.1 The Requiring Authority shall ensure that all works shall be designed and carried out to ensure that the noise from the work complies with the New Zealand Construction Standard NZS6803:1999 "Acoustics - Construction Noise" at all times at 1 metre from the most exposed façade of any existing occupied dwelling.

7. Erosion, Sediment and Dust Control

- 7.1 The works shall not cause noxious, offensive or objectionable levels of dust beyond the designation boundaries.
- 7.2 An Erosion, Sediment and Dust Control Management Plan (ESDCP) shall be prepared as part of the CEMP in accordance with Bay of Plenty Regional Council Guideline No. 2010/01 - "Erosion and Sediment Control for Land Disturbing Activities" and shall give effect to:
- (a) Best practicable methods for controlling dust emissions during construction;
 - (b) Procedures for monitoring the effectiveness of the controls;
 - (c) A complaints procedure; and
 - (d) Inspection and auditing procedures and contingency plans for if controls fail.

8. Construction Flood Management Plan

- 8.1 The Construction Flood Management Plan ('CFMP') shall be developed in consultation with the Bay of Plenty Regional Council Rivers and Drainage Manager and the Utilities Manager of the Western Bay of Plenty District Council.
- 8.2 The objectives of the CFMP shall be to:
- (a) Avoid and, if not practicable, minimise any increase in flood risk arising as a consequence of undertaking the works;
 - (b) Ensure that the Contractor takes into account and manages the potential for increased flood risk when planning and executing the works; and
 - (c) Ensure that in the event of a flood occurring at a construction site, processes and procedures are in place to manage the effects of such an event.
- 8.3 The CFMP shall as a minimum address the following matters:
- (a) Provision of a 24 hour emergency contact person who is able to respond to a flood warning and implement emergency control measures;
 - (b) An outline of the probability of various flood levels;
 - (c) Construction methodology and sequencing for the installation of the diversion control structure, the re-diversion channel, widening and deepening of Fords Cut and construction of the new stopbank;
 - (d) Provision to restrict the length of stopbank being worked on and the number of work fronts affecting stopbanks to the minimum practicable;

- (e) Provision of full flood protection in association with the construction of the re-diversion channel and relocation of the Titchmarsh stopbank; and
 - (f) Existing flood management procedures for the Kaituna Catchment Control Scheme as included in the Regional Council's Flood Warning Manual.
- 8.4 Flood protection systems must be fully reinstated for weekends and public holidays if the Contractor does not have staff on-site on Saturdays, Sundays or public holidays unless alternative interim measures, as approved by the Bay of Plenty Regional Council Rivers and Drainage Manager, are implemented.
- 8.5 The Requiring Authority shall maintain a stockpile of material and sufficient plant on site to be able to undertake immediate reinstatement of stopbank works in the event of a flood warning.
- 8.6 Along the alignment of the proposed re-diversion channel, full flood protection shall be maintained by the existing stopbank except for when the tie-ins are made at each end. The period under which the tie-ins are utilised shall be agreed with the Bay of Plenty Regional Council Natural Hazards Group prior to the works being undertaken.

9. **Network Utilities**

- 9.1 At the time of Outline Plan preparation and at least 20 working days prior to the requiring Authority granting site possession to the Contractor, the Requiring Authority shall submit to the District Council a Network Utility Management Plan (NUMP) prepared jointly by the Requiring Authority, or its agents, and Powerco.
- 9.2 The NUMP submitted in accordance with this condition shall record if there is agreement between the parties and, if not, where and why there is disagreement and the steps taken in an attempt to resolve that disagreement. These matters can then be considered by the Council when assessing the Outline Plan.
- 9.3 All construction activities of the Project are to be undertaken in accordance with the NUMP.
- 9.4 The purpose of the NUMP shall be to ensure that the enabling works, design and construction of the project adequately take account of, and include measures to address the safety, integrity, protection or, where necessary, relocation of existing electricity network utilities.
- 9.5 The NUMP shall include but need not be limited to methods and measures to:
- (a) Identify protocols for liaising with Powerco and for overseeing and approving works that impact on services;
 - (b) Accurately identify and verify the location of existing electricity network utilities;
 - (c) Identify appropriate measures for working near services or the appropriate standards if they have to be relocated;
 - (d) Identify timing and sequencing of work associated with relocation and / or protection of electricity utility services;

- (e) Ensure that existing, relocated and / or replacement electricity network utility infrastructure can be accessed for maintenance at all reasonable times, or emergency works at all times during construction activities;
- (f) To appropriately manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear to overhead electricity lines;
- (g) To ensure that no activity is undertaken during construction that would result in ground vibrations and / or ground instability likely to cause material damage to overhead electricity lines, including support structures;
- (h) To ensure the continued operation and supply of electricity infrastructure services, which may include, but not be limited to, any relocated or replacement electricity lines and cables being made operational prior to the termination of existing lines and cables; and
- (i) Confirm that the works will comply with the minimum separation distances set out in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001).

Conditions 10 – 14 to be included in the District Plan for All Designations

10. Wetland Restoration Plan, Establishment and Maintenance

- 10.1 Prior to the commencement of planting, a Wetland Restoration Plan shall be prepared and submitted to the District Council at least two months prior to the first planting season.
- 10.2 The Wetland Restoration Plan shall be verified by appropriately experienced and qualified practitioner(s), confirming that the Wetland Plan:
 - (a) Meets the Wetland Restoration Plan objective(s); and
 - (b) Complies with the designation conditions.
- 10.3 The objective of the Wetland Restoration Plan is to establish as much wetland as practicable with an aim of no less than 19 hectares or more where physical and environmental conditions allow a sustainable cover of indigenous plants to be established that is representative in terms of species composition of wetland habitat found historically in the area, taking into consideration the substantial and irreversible human-induced changes that have occurred to the landscape surrounding the Ongatoro/Maketu Estuary and to manage areas of existing wetland within the Designation area.
- 10.4 The Wetland Restoration Plan shall provide details of how the above objective is to be achieved, including:
 - (a) A map showing the locations of the proposed work;
 - (b) Identification of the personnel or organisations that are to carry out the work;
 - (c) The timescale of activities;

- (d) Initial monitoring of site growing conditions (especially soil salinity, soil saturation, tidal induced sediment erosion and deposition) after re-diversion;
 - (e) Creation of a planting zone plan based on site growing conditions and species tolerances;
 - (f) A programme for trial planting of plant species especially in areas where growing conditions are likely to be challenging (for example, areas exposed to open tidal water and those with higher salinity);
 - (g) Details of mass planting once species can be matched to site conditions with high confidence of success;
 - (h) Restoration planting plan produced that details the planting zones, species mixes, plant grades, site preparation and post-planting maintenance requirements;
 - (i) Identification of opportunities for Tangata Whenua and the community to be involved in planning and implementation of wetland restoration planting;
 - (j) Monitoring plan to objectively measure plant and species performance;
 - (k) Weed and pest control for each area; and
 - (l) Any ongoing requirements to ensure the objective of the Wetland Restoration Plan is achieved.
- 10.5 The Requiring Authority shall undertake all wetland works and weed and pest control in accordance with the Wetland Restoration Plan.
- 10.6 The Wetland Restoration Plan may be amended at any time provided that any amendments made maintain or enhance the degree and / or extent to which adverse environmental effects attributable to the construction, maintenance or operation of the Project are avoided or mitigated; and those amendments do not result in non-compliance with any designation condition. A copy of the amended Plan shall be provided to the District Council.
- 11. Community Relationships**
- 11.1 No less than 20 working days prior to works commencing, the Requiring Authority shall facilitate and resource a public information session for the purposes of discussing the scheduling and staging for works and expectations regarding communication between the Requiring Authority and the community.
- 11.2 In addition to the community in general, the Requiring Authority shall, as a minimum, directly invite the following parties to the public information session required by condition 11.1 of this designation:
- (a) Department of Conservation;
 - (b) Fish & Game;
 - (a) Tangata Whenua;
 - (b) The Manager of the Kaituna Catchment Control Scheme;

- (c) Coastguard Maketu;
 - (d) Maketu Ongatoro Wetland Society Incorporated;
 - (e) Maketu Community Board;
 - (f) Te Maru o Kaituna
 - (g) R.D. & S.F. Waterhouse Partnership;
 - (h) Te Tumu Landowners Group;
 - (i) Vernon Wills;
 - (j) Maketu Taiapure Committee of Management;
 - (k) Maketu Project Team;
 - (l) Chairman of the Papahikahawai Trust; and
 - (m) Western Bay of Plenty District Council.
- 11.3 Following the public information session required by condition 11.1 but prior to the commencement of the works authorised by this Designation, the Requiring Authority shall prepare and submit to the Regional Council and the District Council a Community Relationship Plan.
- 11.4 The objective of the Plan is to enable Tangata Whenua, the general public and stakeholders to be kept informed of the works and initiatives being undertaken and to facilitate the free flow of information between the Requiring Authority and these parties.
- 11.5 As a minimum, the Community Relationship Plan shall:
- (a) Identify the frequency of communication, taking into account different phases of the project (such as the works phase, wetland works, and monitoring and reporting phases);
 - (b) Make provision for a public information session at least every two years for the duration of the consent, and more regularly during construction and commissioning;
 - (c) Identify an agreed method(s) for providing information, such as a website or other form of communication;
 - (d) Identify the nature of information to be made available, including progress updates on the project, monitoring results, summaries of reports and complaints received with respect to the project; and
 - (e) Identifying the procedures for providing feedback to the Requiring Authority on the implementation of the project.
- 11.6 The Plan shall be implemented to the satisfaction of the District Council.
- 11.7 The Community Relationship Plan may be amended at any time. A copy of the amended plan shall be provided to the District Council.

12. **Accidental Discovery**

- 12.1 A Cultural Monitor shall be employed by the Requiring Authority to monitor, as necessary, and report any discoveries during earthworks.
- 12.2 Prior to construction commencing the Requiring Authority shall provide training to those working on the Project on the accidental discovery protocols.
- 12.3 In the event of any archaeological site or material being uncovered or reasonably suspected to have been uncovered during the exercise of this designation, activities in the vicinity of the discovery shall cease and the Requiring Authority shall notify the District Council as soon as possible.
- 12.4 If any koiwi (human remains) uncovered, or reasonably suspected to have been uncovered during the exercise of this resource consent, the Requiring Authority or their representative shall:
- (a) Notify Heritage New Zealand's Pouhere Taonga Regional Archaeologist, the New Zealand Police and the District Council; and
 - (b) Undertake no further work until future actions have been agreed by all parties listed in condition 12.4(a).
- 12.5 In the event of an accidental discovery, the Requiring Authority shall notify Te Rūnanga o Ngāti Whakaue ki Maketu, Tapuika Iwi Authority, Te Maru o Ngāti Rangiwewehi, Waitaha Raupatu Trust, Ngāti Pikiao, Ngāti Tūnohopū and Ngāti Makino Heritage Trust and shall ensure, as far as practicable, that procedures are undertaken in accordance with:
- (a) The Ngāti Rangiwewehi koiwi and accidental discovery protocol;
 - (b) The Waitaha Raupatu Trust, Ngāti Makino Heritage Trust, Komiti o Ngāti Pikiao (Ki Maketu), Ngāti Tunohopu Accidental Discovery Protocols; and
 - (c) The Te Taonga Tuturu Act - immediate notification of Tapuika representatives in the event that a site or objects of significance are discovered during works.

Note: This condition is in addition to any agreements that are in place between the Requiring Authority and the Tangata Whenua or Heritage New Zealand Pouhere Taonga.

13. **Onshore boating facilities**

- 13.1 Unless otherwise agreed with Coastguard Maketu and or R.D. & S.F. Waterhouse Partnership, the Requiring Authority shall provide onshore facilities associated with the proposed permanent moorings. The facilities shall be restricted to:
- (a) 2 storage containers, or equivalent that are each no bigger than 2.5 metres wide, 6.1 metres long and 2.6 metres high that are screened;
 - (b) A gravel parking area(s) for no more than 8 vehicles;
 - (c) Security fencing; and
 - (d) Security lighting that has been designed to minimise light spill beyond the required area.

13.2 An application for an Outline Plan under section 176A of the Resource Management Act 1991 for the onshore boating facilities shall be accompanied by written verification from a suitably qualified and experienced landscape architecture practitioner(s). This verification shall confirm that the facilities have been designed (including materials and colours), sited and screened in a manner that is appropriate in the landscape context, taking into account the practical need to locate the onshore facilities in proximity to the moorings they serve.

13.3 In the event that agreement is reached between the Requiring Authority and Coastguard Maketu and/or R.D. & S.F. Waterhouse Partnership that either one or both of the moorings are no longer required, the Requiring Authority shall provide a copy of this agreement in writing to the District Council prior to the commencement of construction of the 'salinity block'.

14. **Tangata Whenua Involvement Plan**

14.1 Prior to commencing any works authorised under this consent, the Requiring Authority shall prepare and submit to the Regional Council and District Council a Tangata Whenua Involvement Plan. The Plan shall be developed in consultation with Tangata Whenua.

The objective of the Plan is to provide, to the extent reasonable and practicable, for the involvement of Tangata Whenua, including each group individually, at all stages of the Project and its implementation.

14.2 The purpose of the Plan is to identify the process and extent of involvement by Tangata Whenua in:

- (a) Developing the detail of the restoration activities for the Project;
- (b) The delivery of the restoration activities; and
- (c) Monitoring the effectiveness of the restoration activities.

14.3 As a minimum the Plan shall detail:

- (a) How and when Tangata Whenua will be involved with planning and implementation of:
 - i. wetland restoration;
 - ii. monitoring in the estuary and the river; and
 - iii. any other matter identified through the development of the Plan;
- (b) A cultural research and monitoring process for kaimoana;
- (c) Opportunities for providing improved tuna and inanga fish passage and habitat;
- (d) How local cultural knowledge may be incorporated in monitoring of the effects of the Project;
- (e) Mechanisms for enabling local employment and providing education opportunities for Tangata Whenua, including making material and knowledge available for educational use;

- (f) The means for measuring the effectiveness of the initiatives undertaken as part of the Project, as well as the Project overall, on mauri and local cultural knowledge; and
- (g) A process for Tangata Whenua to have input into and provide feedback on any reporting prior to its lodgement.

14.4 The Tangata Whenua Involvement Plan may consist of several sub-plans developed with the different Tangata Whenua groups, to recognise the unique and diverse interests and values of different Tangata Whenua groups, and to take into account the recommendations of the Cultural Impact Assessments prepared by the different groups.

14.5 The Tangata Whenua Involvement Plan, including any of its sub-plans, may be amended from time to time in consultation with Tangata Whenua.

Advice Notes:

The Requiring Authority will be seeking an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014, prior to the commencement of construction. The authority may include requirements for detailed investigations and monitoring effects and are also likely to require the preparation of a Heritage Management Plan (or an Archaeological Management Plan).

This designation will lapse if not given effect to before the expiry of 10 years from the date on which it is included in the District Plan under section 175(2) of the Resource Management Act 1991.

In the event that the associated resource consent conditions are amended as a result of a review, the Requiring Authority may seek a consequential alteration to the associated Designation conditions.