



RAVENSDOWN LIMITED

**NAPIER WORKS SUSTAINABLE
SITE PROJECT**

Planning Assessment

26 November 2021

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1 INTRODUCTION

Ravensdown Limited ('Ravensdown', 'the applicant') operates a superphosphate manufacturing plant ('the plant') at 200 Waitangi Road, Awatoto, Napier ('the site' / 'Napier Works').

This report presents an analysis of Ravensdown's proposal to replace its existing Napier Works consents in relation to the relevant policy and planning documents that need to be considered under section 104D, 104(1)(b) and Part 2 of the RMA.

Specifically, the relevant provisions of the following documents are discussed:

- National Environmental Standards for Freshwater ("NESFW");
- National Environmental Standards for Air Quality, 2004 ("NESAQ")
- National Environmental Standards for Sources of Drinking Water ("NESDW");
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ("NESCS");
- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020;
- New Zealand Coastal Policy Statement 2010 ("NZCPS");
- National Policy Statement for Freshwater Management 2020; ("NPSFW");
- Proposed National Policy Statement on Indigenous Biodiversity ("NPSIB");
- Hawke's Bay Regional Coastal Environment Plan ("RCEP");
- Hawke's Bay Regional Resource Management Plan ("RRMP");
- Proposed Plan Change 9 - TANK (Tūtaekurī, Ahuriri, Ngaruroro, Karamu) Catchment Plan ("TANK") and recently released s42A Reports; and
- Napier District Plan ("District Plan").

In addition, and in accordance with section 104(1)(c) of the RMA, relevant statutory acknowledgements and applications made under the Marine and Coastal Area (Takutai Moana) Act 2011 are also considered.

2 EXISTING ENVIRONMENT

2.1 SITE LOCATION

The Napier Works has operated at the Awatoto site since 1953, originally owned by East Coast Fertiliser, and being bought by Ravensdown in 1987. The Awatoto Industrial area is one of Napier's five main industrial zones and has traditionally been the preferred location for large scale industry in Napier.¹

The City of Napier District Plan ('District Plan') provides the following description of the Awatoto Industrial area:

The Awatoto industrial area is located on the southern fringe of the City, adjacent to the foreshore. It is the setting for a number of industries that require relatively large sites. Awatoto's manufacturing specialisation includes fertiliser manufacturing, chemicals, textiles, aggregate and food processing. This zone is also known for its number of existing industrial operations that may, from time to time, produce objectionable visual and/or odour effects. Industrial activities that require large sites and/or which may generate objectionable effects may benefit from Awatoto's relative isolation from sensitive activities where there is less potential for reverse sensitivity issues to arise.

It should be noted that the area of land to the east of State Highway 2 is not serviced. Meanwhile, only a sewerage service is provided to the land westward of State Highway 2 extending from 827 Waitangi Road (Lot 1 DP 22549) in the north, to 890 Waitangi Road (Sec 62, Blk 1 Clive Survey District) to the south.

The land to the west of the Napier Works and the industrial area is made up of rural land with various pastoral farming and horticultural/ viticultural activities. State Highway 51 and the railway line lie between the site and the coast to the east.

Figure 1 below provides an overview of the Napier Works and the surrounding area.

¹ City of Napier District Plan, Chapter 22 Industrial Environments.



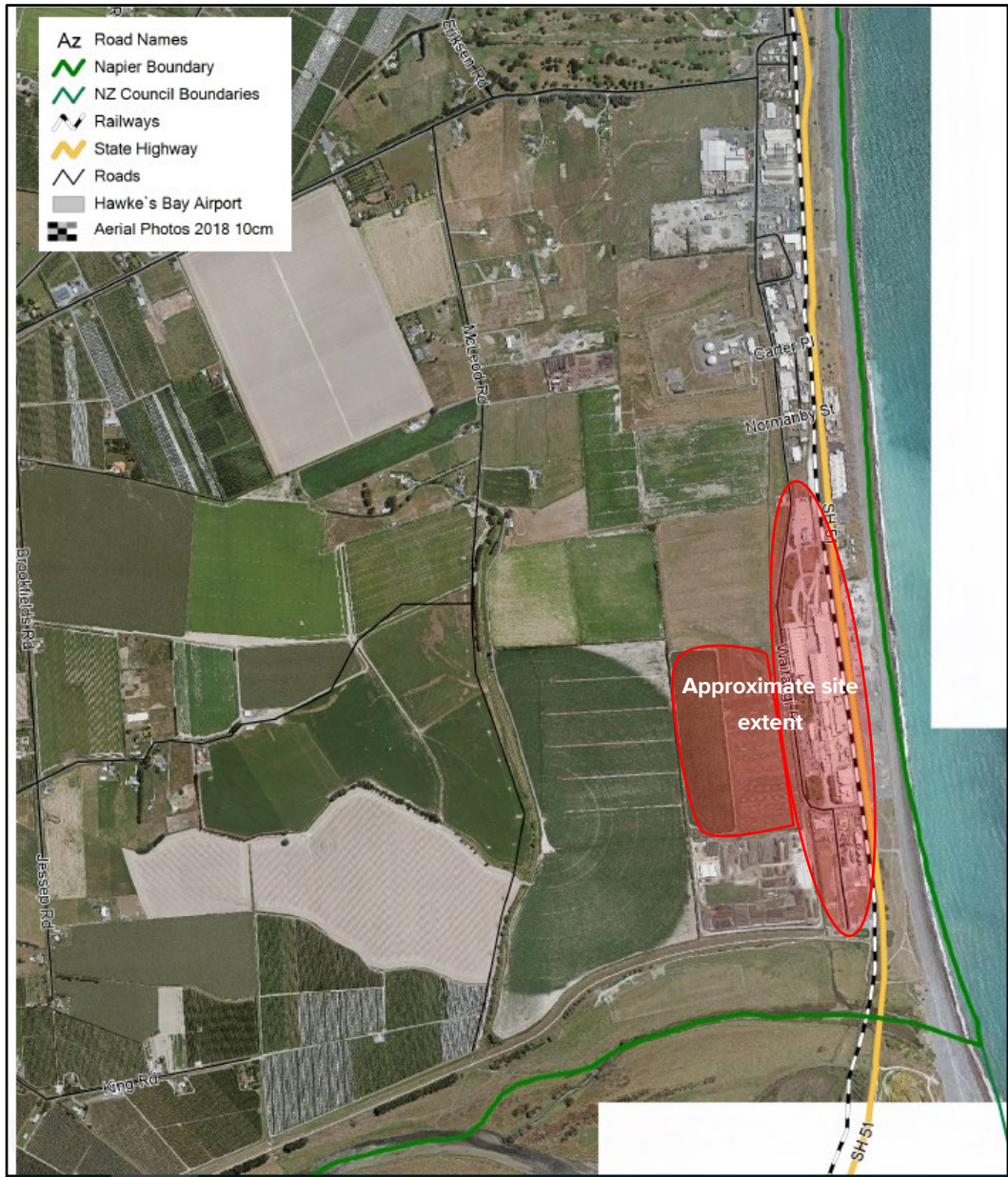


Figure 1: Location overview

2.2 ZONING AND OVERLAYS

2.2.1 Zoning

The main Napier Works site is zoned 'Main Industrial' in the District Plan (see dark blue shading in 2 below). The site's stormwater and process water settlement pond and discharge point are zoned as 'River Conservation' (light blue) and the land west, zoned Main Rural (green), is comprised of a composting facility in the south and agricultural cropping area to the north. The grey area shown in Figure 2 to the west of the northern part of the site is also zoned Main Rural but has a Wastewater Treatment overlay.





Figure 2: Napier District Plan Zones

2.2.2 Other District Plan Map Features

An archaeological site V21/299 is located adjacent to the western boundary of the site on Waitangi Road (see the green star in Figure 2 above). The site is thought to be the approximate site of Te Awapuni pa and the chapel & burial ground which were associated with William Colenso's mission station – there are no above ground remains.

A large area of significance to iwi is identified either side of SH51 and along the eastern boundary of the site. This is difficult to identify visually in Figure 2, but the area is shown as a dotted area on the north-eastern portion of the map. It is identified in the District Plan as 'Upokopoto'.

The parallel purple dashed lines in Figure 2 denote the 'State Highway Noise Boundary'. Despite a portion of the site being within these lines, there is little implication for Ravensdown as the resulting additional noise provisions only apply to 'noise sensitive activities'.



The pink outlined areas with diagonal lines identify designations D1 and D76 which are 'Railway Purposes – KiwiRail' and 'State Highway 2² – New Zealand Transport Agency', respectively.

2.2.3 RCEP Overlays

The Coastal Margin and Coastal Hazard Zone 1 (from the RCEP maps) is shown in Figure 3.

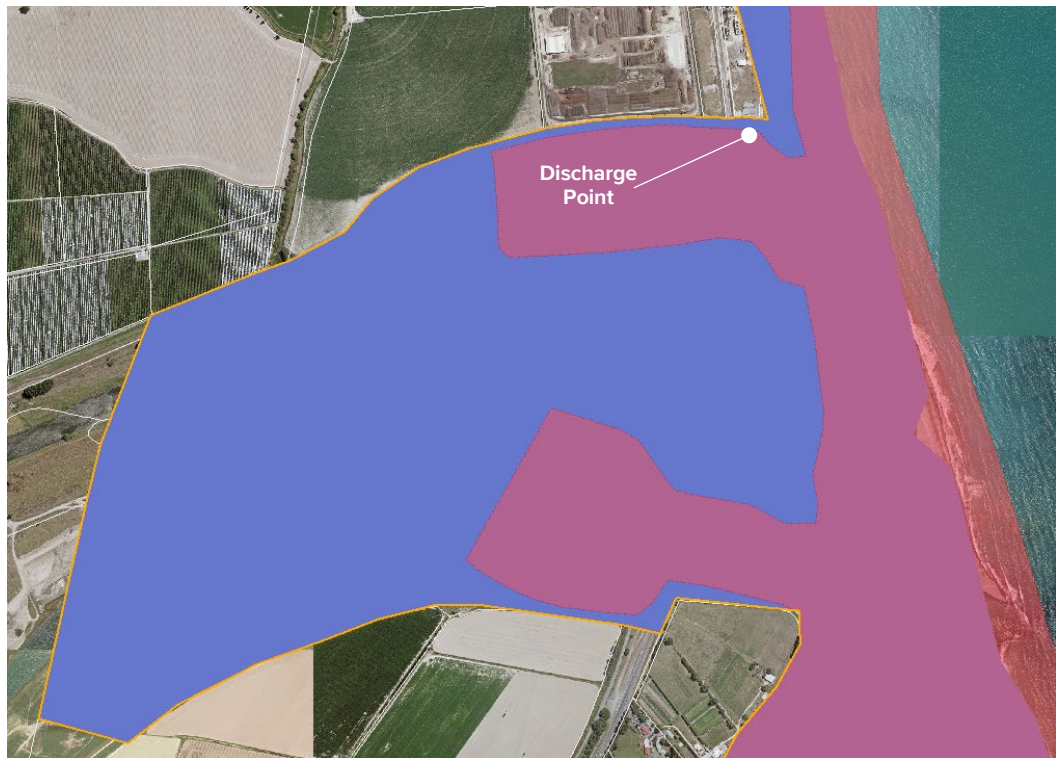


Figure 3: Coastal Margin (purple) and Coastal Hazard Zone 1 (pink)

An RCEP Vegetation Clearance Management Area is also located to the south of the site (Figure 4).

² Recently renamed State Highway 51.



Figure 4: RCEP Vegetation Clearance Management Area (green mottled area)

2.3 WAITANGI REGIONAL PARK AND ESTUARY

The Waitangi Regional Park is located along the coast to the south of the Napier Works between Awatoto and Haumoana within the Hastings District and encompasses the common mouth of the Ngaruroro, Tūtaekurī and Karamu/Clive Rivers forming the Waitangi Estuary.

The Hawkes Bay Regional Council (“HBRC”) website details the ‘story’ of the park as follows:

Waitangi ranks within the top 10 wetlands in the region that require protection and enhancement as determined by Hawke’s Bay Regional Council. This area provides a variety of wetland and coastal habitats that support a significant population of bird species. It connects with the nearby Tukituki Estuary. The restoration of some of the wetland areas now is helping to provide habitats for seabirds, water fowl, fish, insects and plants along this coastline.

The estuary initially linked the Ngaruroro and Tukituki river mouths and in the late 1800’s a small ferry boat transported people and goods across the rivers. Significant changes have occurred since then as a result of storms and coastal erosion. The construction of the Heretaunga Plains Flood Control Scheme in the 1960 and 70s further altered the wetlands. Numerous stopbanks and pump stations were constructed along these rivers and Muddy Creek south to the Tukituki River to



provide flood protection and drainage to extensive areas of land between Napier and Hastings. While this was important for the economic development of Hawke's Bay, it did help to destroy an extensive wetland system over this area which is now being restored.

Waitangi Regional Park was developed by the HBRC in conjunction with local iwi in recognition of the significant cultural, historic, biodiversity and recreational values, all of which have been recognised in recent years through development and enhancement projects including:

- Installation of the Ātea a Rangi Star Compass;
- Enhancement of the existing wetland and construction of a new wetland;
- Extensive native planting;
- Development of carparks and pathways; and
- Installation of educational signage.

2.4 EXISTING SITE ACTIVITIES

2.4.1 Discharge to Air

The operations at the Napier Works produce a number of contaminants that are authorised under the current air discharge consent (AUTH-115256-04) and include the following:

- Sulphur dioxide (SO₂) and sulphur trioxide (SO₃)
- Sulphuric acid (H₂SO₄)
- Silica
- Fluoride
- Acidic vapour
- Odour
- Suspended particulate matter and dust
- Combustion products (diesel vapour, vehicle exhaust fumes)
- Cooling tower steam / evaporated heat / vapour

2.4.2 Discharge to Water

Water is currently discharged from the Napier Works via the onsite stormwater and process water settling ponds to a blind arm of the Tūtaekurī River (as authorised by the water discharge permit AUTH-114016-02). The water is reused on site in the manufacturing plant and periodically pumped to the river when the onsite system reaches capacity.



The 'discharge water' is made up of both stormwater and process water from the following sources:³

- Cooling water from air compressors and a hydraulic drive;
- Water from drinking fountains and a truck wash;
- Acid plant cooling water;
- High pressure boiler blowdown water; and
- Rinse water from the boiler water treatment plant.

Contaminants within the discharge water include sediment, fertiliser (fluoride and sulphur), hydrocarbons and heavy metals. Physicochemical parameters include pH, dissolved oxygen, nutrients.

In addition, chemicals used in the cooling towers (corrosion inhibitors, a copper inhibitor, a non-oxidising biocide and a biodispersant) and products used in the truck wash facility are also likely to be within the discharge water.

2.4.3 Water Take

There is no reticulated Council water supply to the Napier Works. Two onsite bores located within the Coastal Environment supply water for drinking water, fire service supply, steam generation, dilution, cooling tower make up and acid make up (as authorised by the water take consent AUTH-116104-03).

2.4.4 On-site Wastewater

The Napier City Council ("NCC") sewerage system does not extend to the Napier Works. Five onsite wastewater treatment devices (septic tanks) are used for the collection and treatment of wastewater from amenities (cafeteria, showers, toilets, laboratory).

2.5 EXISTING RESOURCE CONSENTS

The current HBRC and NCC resource consents held by Ravensdown for the activities at the Napier Works are detailed in Table 1 below.

Table 1: Resource consents held by Ravensdown

Consent No.	Consent Type	Activity Description	Expiry	Issuing Authority
AUTH-114016-02	Discharge to Water	To discharge contaminants into water for the purpose of disposing of stormwater, cooling water from air compressors and a hydraulic	31 May 2022	HBRC

³ Domestic sewage is not included in this discharge water.



Consent No.	Consent Type	Activity Description	Expiry	Issuing Authority
(DP040143Wa)		drive, water from drinking fountains and a truck wash, water from cooling towers and high pressure boilers, and rinse water from a boiler water treatment plant into the Tūtaekurī River (Waitangi Estuary).		
AUTH-115256-04 (DP050561Ab)	Discharge to Air	To discharge contaminants into the air from the operation of the company's fertiliser manufacturing plant at Awatoto, including the following processes: <ul style="list-style-type: none"> • The manufacture of sulphuric acid, • The manufacture of superphosphate fertiliser, • The storage, blending and dispatch of bulk and bagged fertilisers and sulphuric acid, • The receipt and storage (inside and outside) of raw materials and imported fertiliser, • General site operations. 	21 Oct 2022	HBRC
AUTH-116104-03 (WP060639Tb)	Water take	To take water from well no's. 15986 and 15989 (150 mm diameters) for use in the manufacture of sulphuric acid and fertilisers.	31 May 2027	HBRC
AUTH-126648-01	Discharge to Water	To discharge, for a short-term and temporary duration, Fluorescent Red Rhodamine WT dye into water at the Awatoto Drain from the settling pond at Ravensdown Limited's superphosphate manufacturing plant.	31 May 2023	HBRC
970172	Landuse	To erect 38m high Chimney / Stack	NA	NCC
030228	Landuse	6 metre stack extension	NA	NCC
060271	Landuse	To establish transport depot within area of significance to iwi	NA	NCC
200123	Landuse	Construction of a new 50m high air discharge stack to replace two existing 38m high 'den stacks' and the single 36m high hygiene stack within the superphosphate manufacturing facility. NESCO consent for earthworks on land containing contaminated soil.	Needs to be implemented by 31 March 2026	NCC



3 THE PROJECT

3.1 PROJECT DEVELOPMENT

As part of Ravensdown's plans to renew the water and air discharge consents, separate strategies were developed for the site's ongoing discharges to the environment. In summary, these strategies involved the following key elements:

- Balancing environmental and business sustainability, with the aim of achieving Best Practice where possible;
- The establishment of a Technical Focus Group (TFG) made up of representatives from key stakeholder groups to engage with Ravensdown during the renewal of both the water and air discharge permits;
- In partnership with Mana Whenua, TFG members and the HBRC, the establishment of a Habitat Abundance Restoration Project ("HARP") as a separate beneficial project within an identified area of the Waitangi Regional Park;
- Work with the TFG and mana whenua to undertake monitoring of selected mahinga kai (traditional food resources) in the vicinity of the site; and
- The development of a Source Control Management Plan for both Air and Water discharges from the site.

3.2 PROJECT DESCRIPTION

Implementation of the air and water discharge strategies has informed Ravensdown's consent application proposal. With respect to future air discharges, the proposal is described in full within Section 4 of AEE⁴ and was developed with advice from Tonkin + Taylor. With respect to future treatment and management of the site's stormwater and process water discharges, the proposal was developed by Aurecon and is described in Section 5 of AEE. Both proposals rely on improvements in on site source control measures.

In summary, with respect to air discharges, the proposal is to replace the existing Den scrubber system and Acid Plant Converter Tower, resulting in an anticipated overall improvement in discharge quality and reduced ground level concentrations of fluoride.

With respect to water discharges, the proposal involves the following key elements:

- As a first stage:

⁴ Ravensdown Limited - Napier Works Air and Water Discharge Improvement Project, Resource Consent Application & Assessment of Environmental Effects, November 2021.



- The installation of a bioretention and a clarifier treatment device; and
- The establishment of a land-based irrigation discharge facility to enable treated stormwater and process water to be “polished” through the absorption of residual contaminants by plant crops and soils, thereby minimising future discharges directly to the Waitangi estuary. Crop irrigation will be located on Lot 6 DP 25683 (8.7 ha) and Lot 7 DP 25683 (8.9 ha) - both owned by Ravensdown and within the Main Rural Zone.
- The establishment of a discharge regime that prioritises land-based discharges and minimises future direct discharges to the Waitangi Estuary as described in the AEE.
- As a secondary stage:
 - The introduction of a large settling pond that discharges to a constructed treatment wetland; and
 - Improvements to the existing Discharge Pond to limit potential interactions with groundwater.

Schematics of the two stages of development are shown in Figures 5 and 6.



Figure 5: Stage 1 Improvements





Figure 6: Stage 2 Improvements

Ongoing abstraction of groundwater is also required for site operations including the maintenance of upgraded treatment systems.

The project also includes a commitment by the applicant to facilitate and implement the Habitat Abundance Restoration Project (“HARP”) within the Waitangi Regional Park. The area identified for this restoration activity is shown in Figure 7. This is located within a Vegetation Clearance Management Area as defined in the RCEP.

Included in the HARP is the establishment of an environmental flow of water to sustain and maintain year-around health of an area of new / restored wetland area. This environmental flow of water will be abstracted from the site’s existing groundwater bores, then piped to, and discharged into, the new wetland area. When possible, treated stormwater from the site may also be used as environmental flow to the wetland to minimise groundwater usage.



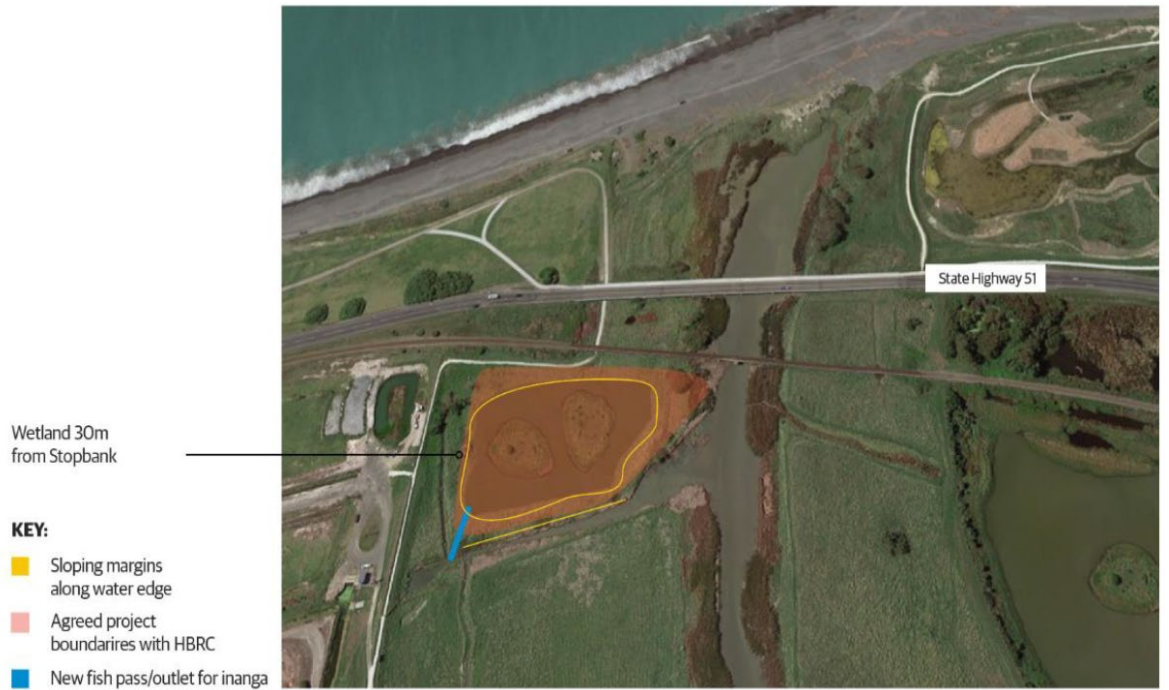


Figure 7: Schematic Representation of the Proposed HARP Wetland⁵

⁵ Ravensdown Napier Works Habitat Abundance Restoration Project Plan



4 DEFINITIONS AND STATUTORY DOCUMENT INTERFACES

In this case, the site and proposed discharges from the site, are located both within and outside the Coastal Environment. This presents a relatively complex situation where activities are covered by various statutory documents including instances where their respective application areas potentially overlap. It is, therefore, prudent to clarify where the boundaries lie in respect of relevant statutory documents and relevant definitions and terms.

4.1 RELEVANT DEFINITIONS

Freshwater: means all water except coastal water and geothermal water.

Coastal water: means seawater within the outer limits of the territorial sea and includes —

- (a) seawater with a substantial freshwater component; and
- (b) seawater in estuaries, fiords, inlets, harbours, or embayments.

Coastal environment: means an environment in which the coast is a significant element or part, and includes:

- (a) the coastal marine area;
- (b) any areas identified as being affected by, or potentially affected by, coastal flooding or coastal erosion;
- (c) any of the following:
 - (i) tidal waters and the land above mean high water springs;
 - (ii) dunes;
 - (iii) beaches;
 - (iv) areas of coastal vegetation and coastal associated fauna;
 - (v) coastal cliffs
 - (vi) salt marshes;
 - (vii) coastal wetlands, including estuaries; and
 - (viii) areas where activities occur or may occur which have a direct physical connection with, or impact on, the coast.

The Coastal Environment in respect of the project site and proposed discharge to water is shown in Figure 8.



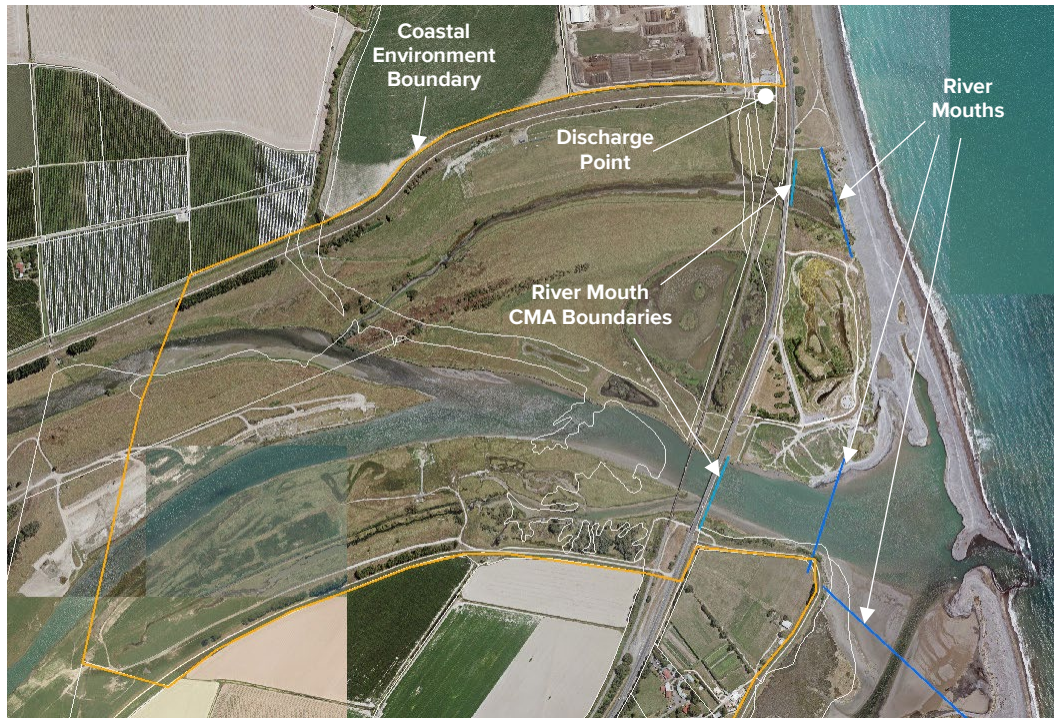


Figure 8: CMA and Coastal Environmental Boundaries

Coastal Hazard Zone 1 means an area identified on the planning maps which is land assessed as being subject to storm erosion, short-term fluctuations and dune instability and includes river mouth and stream mouth areas susceptible to both erosion and inundation due to additional hydraulic forcing of river or estuary systems. For the purposes of this Plan, it extends a distance of 200m seaward from its inland boundary.

Coastal Hazard Zone 1 in respect of the project site and proposed discharge to water is shown in Figure 3.

Coastal Margin means an area of the coastal environment identified for the purposes of the RCEP to manage activities and the effects of activities occurring within the coastal environment. It does not include any part of the coastal marine area.

The Coastal Margin in respect of the project site and proposed discharge to water is shown in Figure 3.

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 (as defined by s3 of the Territorial Sea and Exclusive Economic Zone Act 1977);
- (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) one 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.

The Coastal Marine Area in respect of the project site and proposed discharge to water is shown in Figure 8.

Marine wetland has the same meaning as **Estuary** meaning any wetland with indigenous plants and animals living under the influence of periodic or occasional salt intrusion.

Mouth for the purpose of defining the landward boundary of the coastal marine area, means the mouth of the river either:

- (a) as agreed and set between the Minister of Conservation, the regional council, and the appropriate territorial authority in the period between consultation on, and notification of, the proposed regional coastal plan or
- (b) as declared by the Environment Court under s310 of the RMA upon application made by the Minister of Conservation, the regional council, or the territorial authority prior to the plan becoming operative.

Mouths of rivers in respect of the project site are shown in the RCEP Planning maps (Figure 8). It should be noted that although the Tūtaekurī Blind Arm is shown as having its own mouth, this part of the river flows westward to re-join the main stem of the Tūtaekurī River at a location upstream of its main river mouth. Flows from the Bind Arm only flow eastward in very large flood events. In these instances, rather than flowing directly to the ocean, flood flows are directed southward to join the main stem of the Tūtaekurī River at the Waitangi Estuary.

Natural wetland: means a wetland (as defined in the Act) that is not:

- (a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or
- (b) a geothermal wetland; or
- (c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling.

Restoration, in relation to a natural inland wetland: means active intervention and management, appropriate to the type and location of the wetland, aimed at restoring its ecosystem health, indigenous biodiversity, or hydrological functioning.

Significant Conservation Area: means an area within the coastal marine area identified for the purposes of this Plan to manage activities and the effects of activities within areas



having significant conservation values, particularly cultural, ecological, historic, or wildlife values. The areas are identified on the maps in Volume 2 of the RCEP.

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

4.2 WETLAND AND ESTUARY INTERFACE WITH NESFW, RCEP AND TANK

Figure 9 shows a pictorial interpretation of the interaction of relevant definitions as they relate to wetlands and the Coastal Marine Area (CMA). Figure 10 transposes these concepts to the Ravensdown site, and Figure 11 shows the Waitangi Estuary as mapped in TANK Proposed Schedule 26.5.

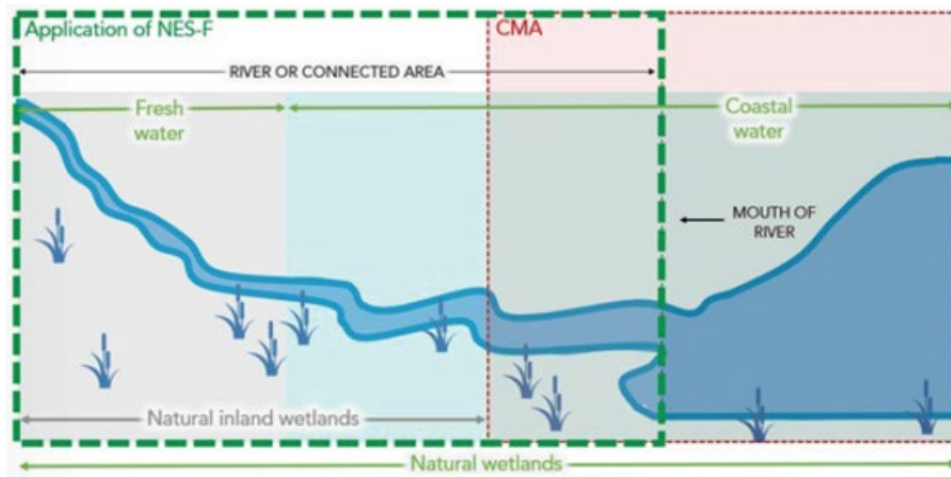


Figure 9: Interaction of relevant statutory definitions in relation to wetlands (Source: Resource Management Journal, April 2021).





Figure 10: Map showing; interpreted boundary of where the NESFW applies (yellow dashed line), Coastal Environment (orange line) and Significant Conservation Area 11 of the RCEP (Waitangi Estuary).

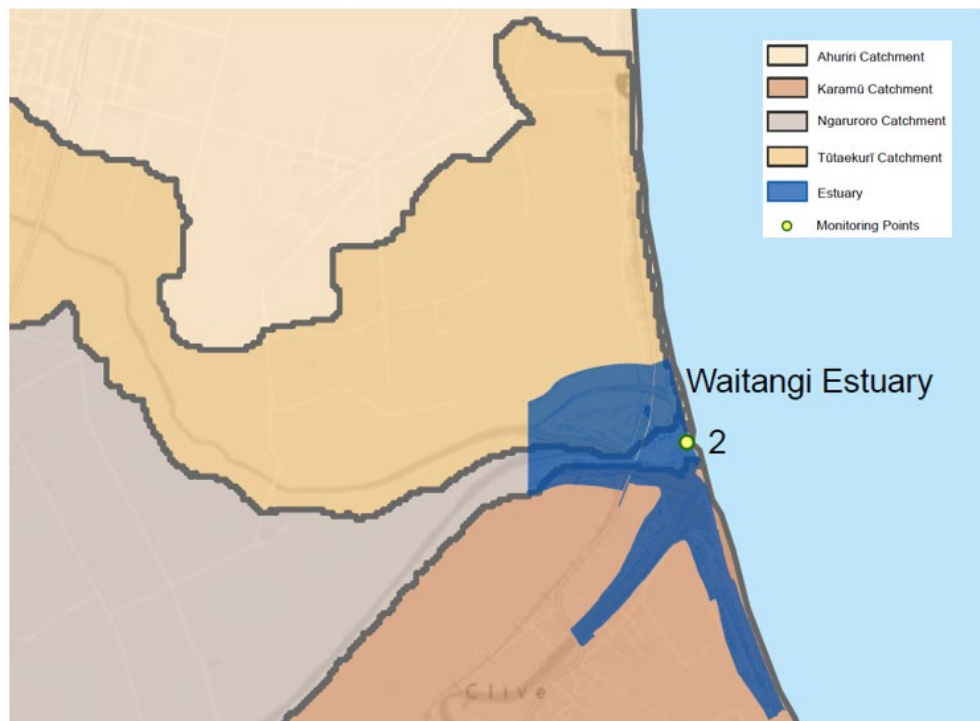


Figure 11: Snip from TANK Schedule 26.5 Planning Map – Estuary (TANK s42A Addendum Report)



4.3 INTERPRETATION SUMMARY AND OVERALL APPROACH TO THE STATUTORY ASSESSMENT OF PROPOSED WATER AND LAND USE ACTIVITIES

Discharge Locations

The existing unlined settling pond and associated discharge to ground are located within:

- the Coastal Environment (as defined in the RCEP);
- the Coastal Margin (as defined in the RCEP);
- the Waitangi Estuary (as defined in TANK); and
- a Vegetation Clearance Management Area (as defined in the RCEP);

but outside the CMA and any Coastal Hazard Zone.

The current and future discharge to water from the settling pond is located within:

- the Coastal Environment (as defined in the RCEP);
- the Coastal Margin (as defined in the RCEP);
- the Waitangi Estuary (as defined in TANK);
- a Vegetation Clearance Management Area (as defined in the RCEP); and
- Coastal Hazard Zone 1;

but outside the CMA – albeit entering the CMA downstream.

Groundwater Take Locations

The current and future groundwater abstraction activities are within:

- the Coastal Environment (as defined in the RCEP); and
- the Coastal Margin (as defined in the RCEP).

HARP Location

The area of the HARP and associated earthwork activities is within:

- the Coastal Environment (as defined in the RCEP);
- the Coastal Margin (as defined in the RCEP);
- the Waitangi Estuary (as defined in TANK);
- a Vegetation Clearance Management Area (as defined in the RCEP);
- Coastal Hazard Zone 1; and
- The 'River Conservation' zone in the District Plan.



NPSFM Relevance

Although the proposal includes discharges to the coastal environment, it is considered the NPSFM is relevant and applies in respect of Ravensdown's application for the following reasons:

- The proposal includes some discharges to the Waitangi Estuary;
- The Waitangi Estuary includes a mixture of freshwater and seawater;
- The NPSFM deals with the freshwater component of the Waitangi Estuary;
- Section 1.5 of the NPSFW (Application) states: 1) This National Policy Statement applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area);
- The NPSFM definition for receiving environment "includes, but is not limited to, any water body (such as a river, lake, wetland or aquifer) and the coastal marine area (including **estuaries**)"; and
- Section 3.5 of the NPSFW (Integrated Management) states: (1) Adopting an integrated approach, ki uta ki tai, as required by Te Mana o te Wai, requires that local authorities must:
 - (a) recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea.

Notwithstanding the relevance of the NPSFM to the Waitangi Estuary (as above), it is noted that NPSFM policy 3.22, relating to the avoidance of any loss in wetland extent, protection of wetland values and promotion of wetland restoration, is not relevant in this case since policy 3.22 applies only to natural "inland" wetlands.

NESFW Relevance

Regulations within the NESFW will apply for any relevant activity located west of the yellow dashed line in Figure 9 - irrespective of whether it includes areas of Coastal Environment.

The Waitangi Estuary (as mapped in TANK Schedule 26.5 Planning Map – Estuary) is considered to be a natural wetland as defined under the NESFW.

NZCPS Relevance

The NZCPS is a relevant instrument in this case from a policy analysis perspective. No specific water quality targets are prescribed.



RCEP Relevance

The RCEP sets out the framework for managing resource use activities within the coastal marine area of Hawke's Bay as well as its coastal margin.

Future discharges from the site's settlement pond will continue to enter the Coastal Environment (see orange line in Figure 10 above), albeit in a lesser and more controlled fashion, therefore, the RCEP is the relevant instrument from an activity status perspective in respect of any discharge to the Waitangi Estuary. Schedule D of the RCEP sets out a small number of key water quality standards that will apply. The RCEP is also relevant in respect of the proposed groundwater take and HARP construction and operation activities.

RRMP Relevance

The RRMP sets out the policy and rule framework for the management of resource use activities in Hawke's Bay and includes an operative Regional Policy Statement ('RPS'). The RPS recognises the regional significance of the coastal marine area and wider coastal environment of Hawke's Bay. Therefore, some RPS policies relating to the wider coastal environment are relevant.

From an activity status perspective, the RRMP is only relevant to those activities occurring landward of the Coastal Environment.

TANK Relevance

Although TANK is a Proposed Plan, in accordance with s86B(3) of the RMA, the proposed TANK rules protecting or relating to water, soil, significant indigenous vegetation or significant habitats of indigenous fauna have immediate legal effect.

Given TANK is still a Proposed Plan, the provisions in Chapter 5 of the RRMP that TANK seeks to amend or override, will continue to apply. Therefore, the provisions of both the RRMP and the provisions of TANK apply in this instance. At the moment, the plan change process is sitting in the deliberation phase with decisions expected in late 2021 or early 2022.

Although discharges to water are within the Coastal Environment, and therefore, should be assessed against the RCEP (i.e. not the RRMP or TANK), a wider and more practical approach has been adopted in both the technical and planning assessments for this proposal by also taking account of TANK's 2040 water quality targets (as set out in TANK Schedule 26.5.2 in the s42A addendum report) being developed in response to the requirements set out in the NPSFM. Although there is potential for these targets to change through the remainder of the TANK plan change process, changes are considered unlikely given several water quality standards in table 26.5.2 (Waitangi Estuary ecosystem health (water quality)) appear to have been based on targets prescribed in the NPSFM.



It is also noted that, while the water take application is assessed as being within the coastal environment and subject to the RCEP provisions, in terms of the TANK proposed plan change provisions, the past actual and reasonable use information records a maximum historical weekly take of 11,833m³. This proposed water take volume is significantly less than the current consented volume for the site. The new proposed maximum weekly volume for the same base manufacturing process is 10,765m³. The additional 2,712m³ maximum weekly take being sought is all associated with environmental outcomes to benefit the coastal environment and is therefore totally consistent with the relevant objectives and policies in the RCEP.



5 STATUS OF PROPOSED ACTIVITIES

The following section identifies the RMA status of the proposed activities and discusses the extent to which those activities need to be the subject of resource consent applications.

The site sits within the jurisdictions of the Hawke’s Bay Regional and Napier City Councils. The relevant planning instruments that determine the status of the activities comprising the proposal are:

- Hawke’s Bay Regional Coastal Environment Plan (“RCEP”);
- Hawke’s Bay Regional Resource Management Plan (“RRMP”);
- Proposed Plan Change 9 (“TANK”); and
- City of Napier District Plan (“District Plan”).

In this instance, it is also appropriate to consider relevant National Environmental Standards (“NES”) that might require additional consents.

The status of the proposed activities with respect to these instruments is presented below.

5.1 NATIONAL ENVIRONMENTAL STANDARDS

There are seven operative National Environmental Standards (NES) that have come into effect as regulations to date. Of relevance in this case are;

- NES for Freshwater (“NESFW”);
- NES for Air Quality (“NESAQ”);
- NES for Sources of Drinking Water (“NESDW”); and
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (“NESCS”).

The NESAQ and NESDW do not prescribe any consenting requirements relevant to the discharges from the Napier Works, therefore, the assessment to determine whether any NES consents are required is limited to the NESFW and the NESCS.

5.1.1 The Resource Management (National Environmental Standards for Freshwater) Regulations 2020

The NESFW regulations came into force on 3 September 2020. To achieve its purpose, the NESFW prescribes national environmental standards for certain activities that impact freshwater and freshwater ecosystems.

The NESFW applies to the following Napier Works elements:

- Construction earthworks occurring within or within a 10m setback of a natural wetland (Waitangi Estuary);
- Discharges to and from the settlement pond occurring within or within a 100m setback from a natural wetland (Waitangi Estuary);
- The construction of structures including boardwalks, walking tracks and bridges connecting them, within a 10 m setback from a wetland, including associated earthworks and vegetation clearance activities, and any associated take, diversion, damming or discharge of water; and
- Wetland restoration activities exceeding 500m² including associated vegetation clearance, earthworks (including those associated with the construction of a new wetland area as part of HARP) and all associated water takes, diversions and discharges including those undertaken for the purposes of maintaining a restored wetland.

These activities require consideration under Part 3, Subpart 1 (Natural Wetlands) and Subpart 3 (Passage of fish affected by structures) of the NESFW, as discussed below.

Fish passage

With regards to fish passage, the NESFW regulates structures in a river or connected area⁶ that may impact fish passage, such as a culvert, weir, flap gate, dam or ford. The HARP will involve the construction of a new channel that will link the blind arm of the Tūtaekurī to a newly created wetland area. This channel will enable tidal flows to enter the wetland area during high tide and also allows some water to drain out of the area with the outgoing tide. This channel is not expected to impact fish passage. Accordingly, NESFW regulations for fish passage⁷ are not relevant

Earthworks

The project does not require any river or stream diversions or any river reclamations. However, construction earthworks associated with upgrading the settlement pond cannot avoid the Waitangi Estuary. As a result, earthworks associated with this construction will occur within 10m of a wetland. As these activities are not explicitly provided for under the NESFW, they fall for consideration under ‘Other Activities’, and as a result, these construction activities are deemed to be **Non-complying Activities** under Regulation 54(b).

⁶ river or connected area means— (a) a river; or (b) any part of the coastal marine area that is upstream from the mouth of a river.

⁷ NESFW Regulations 63-68.



Discharges

Discharges to and from the settlement pond will occur within a natural wetland (Waitangi Estuary). As this activity is not provided for elsewhere within the NESFW, it is considered a **Non-complying Activity** under Regulation 54(c).

Wetland Utility Structures

Wetland utility structures⁸ will form part of the proposed wetland restoration project (HARP) and will principally be in the form of monitoring equipment and access tracks around the proposed wetland area or within a 10m setback from a wetland.

The construction of these structures will involve vegetation clearance and land disturbance within, and within a 10m setback from a wetland, and have the potential to cause diversion and discharge of water within these areas.

Given these structures will support education, conservation, restoration, or monitoring, the construction of these structures is provided for as a **Restricted Discretionary Activity** under Regulation 42.

It is expected that any necessary maintenance activity will comply with the **Permitted Activity** requirements of Regulation 43.

Restoration of Wetlands

The proposal includes wetland restoration activities focused on the creation of additional wetland habitat and restoring and enhancing existing wetland habitat.

Regulation 38 of the NESFW provides for vegetation clearance, earthworks, or land disturbance, and the taking, use, damming, diversion, or discharge of water within a natural wetland for the purpose of wetland restoration as a **Permitted activity**, subject to compliance with the permitted activity conditions.

⁸ **wetland utility structure—**

- (a) means a structure placed in or adjacent to a wetland whose purpose, in relation to the wetland, is recreation, education, conservation, restoration, or monitoring; and
- (b) for example, includes the following structures that are placed in or adjacent to a wetland for a purpose described in paragraph (a):
 - (i) jetties:
 - (ii) boardwalks and bridges connecting them:
 - (iii) walking tracks and bridges connecting them:
 - (iv) signs:
 - (v) bird-watching hides:
 - (vi) monitoring devices:
 - (vii) maimai



Where the permitted activity conditions cannot be complied with, the activities would fall for **Restricted Discretionary** consideration under Regulation 39.

The proposed HARP activities have been developed and designed to comply with the relevant conditions of Regulation 38 (which include the requirement to comply with the relevant “General” conditions on natural wetland activities provided in Regulation 55) particularly through the required notification to Council and also through the provision of management plans and / or works plans for restoration works. However, the vegetation clearance and earthworks / land disturbance associated with the wetland restoration activities will exceed the permitted limit of 500 m² for activities specified by Regulation 38(4)(b). As such, resource consent is sought for all activities associated with wetland restoration works as a **Restricted Discretionary Activity** under Regulation 39.

A key requirement of Regulation 39 is the development and provision of a Restoration Plan in accordance with the requirements of Schedule 2 to the NESFW. The Restoration Plan is described in the HARP concept document and consent conditions.

Wetland drainage

No works associated with the proposal will result in the complete or partial drainage of all or part of a wetland.

On that basis, Regulations 45(3)(b), 52 and 53 of the NESFW do not apply.

5.1.2 National Environmental Standard for Assessing and Managing Contaminants in Soil

The NESCS aims to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed, and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use.

Clause 5(1) of the NESCS states that it applies when:

“...a person wants to do an activity described in any of subclauses (2) to (6) on a piece of land described in subclause (7) or (8):”

Clause 5(7) of the NESCS states:

“Land covered

(7) The piece of land is a piece of land that is described by 1 of the following:

- a) an activity or industry described in the HAIL is being undertaken on it:*
- b) an activity or industry described in the HAIL has been undertaken on it:*
- c) it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.”*



HAIL⁹ includes:

- *A6: Fertiliser manufacture or bulk storage*
- *B2: Electrical transformers*
- *E1: Sites with buildings containing asbestos products known to be in a deteriorated condition*
- *G5: Waste disposal to land*

These activities are all identified in the Beca DSI Report as applying to the site. As a result, the site qualifies as (or falls within) a 'piece of land' under Regulation 5(7) of the NESCS.

Soil disturbance and land use change

Earthworks associated with the project will require land disturbance activities exceeding the NESCS permitted thresholds of a volume of no more than 25 m³ per 500 m² being disturbed or, for all other purposes combined, a maximum volume of 5 m³ per 500 m² soil being removed from the site.

Based on the extent of works set out in the DSI, the proposal is not likely to meet these Permitted Activity criteria. As the identified contaminants of concern analysed in DSI did not exceed any of the adopted human health risk criteria, the proposed works will require a **Controlled Activity** consent under Reg 9(1) of the NESCS for soil disturbance. The proposal does not include any change in land use therefore, there are no additional consent requirements under the NESCS.

5.2 HAWKE'S BAY REGIONAL COASTAL ENVIRONMENT PLAN (RCEP)

The RCEP is the planning instrument that sets out the framework for managing resource use activities within the coastal marine area of Hawke's Bay as well as the wider coastal environment. The RCEP was made operative on 8 November 2014.

As shown in Figure 8, the site's settling pond and proposed discharge to the Waitangi Estuary fall within the 'Coastal Environment' as defined in the RCEP.

Relevant activities to consider in respect of consent requirements under the RCEP include:

- Discharges to land via soakage from the existing unlined settling pond;
- Discharge of treated site stormwater and process water to the Waitangi Estuary;
- Small scale diversion and discharge of stormwater occurring within the small area of the site located within the Coastal Environment;

⁹ Hazardous Activities and Industries List.



- Construction earthworks associated with the upgrading and lining of the settling pond (Stage 2);
- Groundwater take from the Coastal Margin for the purposes of:
 - the manufacture of sulphuric acid and fertilisers;
 - the treatment of stormwater and process water including sustaining constructed wetlands and non-commercial crops used in the treatment process; and
 - sustaining and maintaining a restored natural wetland; and
- Discharging groundwater to water for the purpose of sustaining a new / restored wetland.

Table 2: RCEP Rules

Rule / Activity	Conditions / Standards / Terms	Status Assessment
<p>Rule 8</p> <p>Restricted Discretionary Activity</p> <p>Vegetation clearance and soil disturbance that does not comply with Rule 7</p>		<p>Restricted Discretionary Activity Consent required</p> <p>Activities associated with upgrades to the existing settling pond and wetland restoration will not comply with rule 7 since they will occur in a Vegetation Clearance Management Area and will occur within a wetland (Condition (c)(iii) of Rule 7).</p> <p>These activities, therefore, fall to be considered as a Restricted Discretionary Activity under Rule 8.</p>
<p>Rule 17</p> <p>Permitted Activity</p>	<p>a) The rate of discharge at any particular point shall be no greater than 50m³/d.</p>	<p>Does not comply.</p>



Rule / Activity	Conditions / Standards / Terms	Status Assessment
Discharge of contaminants to surface water	<ul style="list-style-type: none"> b) There shall not be any adverse flooding effects on any property owned or occupied by another person as a result of the discharge activity. c) The discharge shall not cause any scouring or erosion of any land or any water course beyond the point of discharge. d) The discharge shall not cause the natural temperature of any receiving water to be changed by more than 3 degrees Celsius from normal seasonal water temperature fluctuations, after reasonable mixing. e) The discharge shall not cause the pH of any receiving water to change by more than 0.2 units, or to extend outside the range 6.5 to 9.0 units, after reasonable mixing. f) The discharge shall not cause any production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials, or any emission of objectionable odour, in any receiving water after reasonable mixing. g) The discharge shall not cause any conspicuous change in the colour or visual clarity of any receiving water after reasonable mixing. h) The discharge shall not cause the biochemical oxygen demand to increase by more than 2 g/m³ in any receiving water body after reasonable mixing. i) The discharge shall not cause any increase in the concentration of pathogenic organisms in any receiving water. 	The proposal will not comply with condition a) regarding max rate of discharge and potentially other rule 17 conditions.



Rule / Activity	Conditions / Standards / Terms	Status Assessment
	<ul style="list-style-type: none"> j) The discharge shall not cause the concentration of dissolved oxygen in any river or lake to drop below 80% after reasonable mixing. k) The discharge shall not cause the concentration of ammoniacal nitrogen (NH₄⁺) in any river or lake to exceed 0.1 mg/l after reasonable mixing. l) The discharge shall not cause the concentration of soluble reactive phosphorus in any river or lake to exceed 0.015 mg/l after reasonable mixing. m) The discharge shall not cause the concentration of any other contaminant (including other nutrients, heavy metals, hazardous substances and indicator bacteria), after reasonable mixing, to: <ul style="list-style-type: none"> i) increase by more than 5% in any natural or modified receiving water body or 10% in any artificial receiving water body ii) exceed the following standards: <ul style="list-style-type: none"> 1) the contact recreation guidelines contained in 'Microbiological Guidelines for Marine and Freshwater Recreational Areas' (Ministry of Health and Ministry for the Environment, June 2003) 2) the guidelines for the protection of freshwater aquatic ecosystems contained in the 'Guidelines for Fresh and Marine Water Quality 2000' (ANZECC, 2000). 	
Rule 19	a) The rate of discharge at any particular point shall be no greater than 50m ³ /d.	Does not comply.



Rule / Activity	Conditions / Standards / Terms	Status Assessment
<p>Permitted Activity</p> <p>The discharge of contaminants onto or into land in the Coastal Margin, in circumstances which may result in those contaminants (or other contaminant emanating as a result of natural processes from those contaminants) entering water.</p>	<ul style="list-style-type: none"> b) The discharge shall not result in the breach of any of the conditions set out in Rule 17. c) The discharge shall not result in the breach of any of the conditions set out in Rule 18. d) The discharge shall be able to infiltrate through at least 600mm of unsaturated soil. e) The discharge shall not cause any surface ponding in the area of discharge, or runoff of any contaminant into a surface water body g) There shall be no discharge within 20m of the coastal marine area or any surface water body, except for material extracted from a surface water body associated with the maintenance of lawfully established structures. h) There shall be no discharge within 30m of any bore drawing groundwater from an unconfined aquifer into which any contaminant may enter as a result of the discharge. i) The discharge shall not cause any degradation of existing groundwater quality in confined aquifers in the Heretaunga Plains aquifer systems. j) For other aquifers, the discharge shall not cause or contribute to a breach of the following guidelines after reasonable mixing: <ul style="list-style-type: none"> i) the 'Drinking water Quality Standards for New Zealand 2000' (Ministry of Health, 2000); ii) the guideline for irrigation contained in the 'Guidelines for fresh and 	<p>The proposal would not comply with conditions b), e) and potentially g).</p>



Rule / Activity	Conditions / Standards / Terms	Status Assessment
	<p>Marine Water Quality 2000' (ANZECC, 2000).</p> <p>k) Where the quality of groundwater in any aquifer encompassed by conditions (j) breaches the standards specified in that condition prior to the discharge occurring, the discharge shall not cause any further degradation of the quality of groundwater in any such aquifer after reasonable mixing.</p>	
<p>Rule 9</p> <p>Discretionary Activity</p> <p>Discharge of contaminants not regulated by, or complying with, other rules</p>	<p>The discharge of contaminants onto or into land, or into water; or water into water in the Coastal Margin that: ...</p> <p>2. does not comply with all relevant conditions on a permitted activity rule or ...</p>	<p>Discretionary Activity Consent Required</p> <p>Since compliance is not achieved under Rule 17 resource consent would be required under Rule 9.</p>
<p>Rule 22</p> <p>Permitted</p> <p>Discharge of water to water</p>		<p>Complies</p> <p>Discharges of water from a bore for the purpose of sustaining and maintaining a restored part of the Waitangi Estuary complies with the conditions of Rule 22.</p>
<p>Rule 25</p> <p>Permitted</p> <p>Small-scale diversion and discharge of stormwater</p>	<p>The diversion and discharge of stormwater from any constructed open drainage system or piped stormwater drainage system in the Coastal Margin that conveys stormwater from any industrial or trade premises (excluding premises used for the storage of any hazardous substance) covering an area of less than 2ha.</p> <p>a) The activity shall not cause any permanent:</p>	<p>Complies</p> <p>The area of the site within the Coastal Margin (including land surrounding the existing settling pond) is significantly less than 2ha, therefore, any stormwater diversion and discharge in this area will comply with</p>



Rule / Activity	Conditions / Standards / Terms	Status Assessment
	<ul style="list-style-type: none"> i) reduction of the ability of the receiving channel to convey flood flows or ii) bed scouring or bank erosion of the receiving channel. <p>b) The discharge shall not cause the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials in any receiving water after reasonable mixing.</p>	the discharge quality standards.
<p>Rule 35</p> <p>Discretionary</p> <p>Taking and use of surface water and groundwater not regulated by, or not complying with, other rules</p>		<p>Discretionary Activity Consent Required</p> <p>Discretionary Activity Consent is required for the proposed groundwater take.</p>
<p>Rule 52</p> <p>Permitted</p> <p>Erection, construction or placement of dams, weirs and other barrier structures in rivers, lakes and artificial watercourses</p>	<ul style="list-style-type: none"> a) The catchment area of the structure shall not exceed 50 hectares, except where the structure is located in a land drainage or flood control area that is managed by a local authority exercising its powers, functions and duties under the Soil Conservation and River Control Act 1941, the Land Drainage Act 1908 or the Local Government Act 1974. b) The volume of water to be stored or retained by the structure to spill level shall not exceed 20,000m³. c) The height of the structure (as measured vertically from the downstream bed to the crest) shall be no greater than 4m. d) A spillway shall be constructed to prevent the structure being overtopped during storm events, unless the 	<p>Complies</p> <p>The proposed wetland is small in scale and will be designed to comply with all standards in Rule 52.</p>



Rule / Activity	Conditions / Standards / Terms	Status Assessment
	<p>structure is designed to allow overtopping.</p> <p>e) Conditions (a) to (d) do not apply to structures which are located in a land drainage or flood control area that is managed by a local authority exercising its powers, functions and duties under the Soil Conservation and Rivers Control Act 1941, the Land Drainage Act 1908 or the Local Government Act 1974.</p> <p>f) The impounded water shall not encroach onto any property, nor impede any drainage system beyond the subject property unless agreed to in writing by any affected property owners.</p> <p>g) Erection or placement of the structure shall not cause any erosion, scour or deposition beyond the area of erection or placement.</p> <p>h) The impounded water shall not cause any erosion or instability of bordering land.</p> <p>i) Within rivers and lakes, provision shall be made to maintain existing fish passage within the water body and, where the water body is permanently flowing, provision shall be made to maintain a residual flow immediately downstream of the structure of at least 1.2 l/min per hectare of catchment above the structure, except at times where such flow would not have occurred prior to the construction of the structure.</p> <p>j) Written notice shall be provided to HBRC advising the erection, construction or placement of the structure at least 15 working days prior</p>	



Rule / Activity	Conditions / Standards / Terms	Status Assessment
	<p>to the commencement of the works where:</p> <ul style="list-style-type: none"> i) the volume of water to be stored or retained by the structure to spill levels exceeds 10,000m³ and ii) the structure is located within the catchment of a land drainage or flood control scheme area that is managed by a local authority exercising its powers, functions and duties under the Soil Conservation and River Control Act 1941, the Land Drainage Act 1908, or the Local Government Act 2002. k) In areas of fish spawning there shall be no disturbance of any part of the bed covered by water from 1 May to 30 September (fish spawning season) except in relation to the erection of whitebait stands, maimai and necessary access structures to these. 	

5.3 HAWKE'S BAY REGIONAL RESOURCE MANAGEMENT PLAN (RRMP)

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

Relevant activities to consider in respect of consent requirements under the RRMP include:

- Soil disturbance;
- Discharges to air;
- Discharge of treated site stormwater and process water to land (crop irrigation); and
- Temporary take of groundwater by dewatering associated with the construction of new stormwater and process water treatment facilities.



Table 3: RRMP Rules

Rule / Activity	Conditions / Standards / Terms	Assessment
<p>7</p> <p>Permitted</p> <p>Vegetation clearance and soil disturbance</p>	<ul style="list-style-type: none"> a. All cleared vegetation, disturbed soil or debris shall be deposited or contained to reasonably prevent the transportation or deposition of disturbed matter into any water body. b. Vegetation clearance or soil disturbance shall not give rise to any significant change in the colour or clarity of any adjacent water body, after reasonable mixing. c. No vegetation clearance shall occur within 5 metres of any permanently flowing river, or any other river with a bed width in excess of 2 metres, or any other lake or wetland, except that this condition shall not apply to: <ul style="list-style-type: none"> ii. the areas identified in Schedule X to this Plan. d. Deposition of soil or soil particles across a property boundary shall not be objectionable or offensive, cause property damage or exceed 10 kg/m². e. Where the clearance of vegetation or the disturbance of soil increases the risk of soil loss the land shall be: <ul style="list-style-type: none"> i. re-vegetated as soon as practicable after completion of the activity, but in any event no later than 18 months with species providing equivalent or better land stabilisation; or ii. retained in a manner which inhibits soil loss. 	<p>Complies</p>
<p>28</p> <p>Discretionary</p>		<p>Discretionary Consent Required</p>



Rule / Activity	Conditions / Standards / Terms	Assessment
<p>Miscellaneous industrial & trade premises.</p> <p>The discharge of contaminants into air from any industrial or trade premises arising from any of the following activities, that is not specifically regulated by any other rule within this Plan:</p> <p>...</p> <ul style="list-style-type: none"> • the manufacture of cement, fertiliser, milk powder, other dried milk derived products, or rubber goods <p>...</p> <ul style="list-style-type: none"> • the manufacture of organic or inorganic chemicals, including pharmaceuticals <p>...</p>		
<p>52</p> <p>Discretionary</p> <p>The discharge of:</p> <ul style="list-style-type: none"> • contaminants onto or into land, or into water, or • water into water <p>which does not comply with any condition on a permitted activity rule, or any standard or term on a controlled activity rule within this Plan, but which is not expressly classified as a discretionary,</p>		<p>Discretionary Consent required</p> <p>Discharges of treated stormwater and process water and associated contaminants to land require consent under Rule 52.</p>



Rule / Activity	Conditions / Standards / Terms	Assessment
noncomplying or prohibited activity.		
55 Discretionary Other takes & uses of surface & groundwater		Discretionary Consents required for: Discretionary Consent required for the temporary take of groundwater by dewatering associated with the construction of new stormwater and process water treatment facilities requires consent under Rule 55

5.4 PROPOSED PLAN CHANGE 9 ('TANK')

To enable the progressive implementation of the previous and new NPSFM, the Proposed TANK Plan Change contains a number of new provisions relating to the management of water quality, allocation and use within the Tūtaekurī, Ahuriri, Ngaruroro and Karamu (TANK) catchments. The Ravensdown site is located within the Tūtaekurī catchment.

As identified earlier, although TANK is still currently a proposed plan, in accordance with s86B(3) of the RMA, the proposed TANK rules protecting or relating to water, soil, significant indigenous vegetation or significant habitats of indigenous fauna have immediate legal effect.

Relevant activities to consider in respect of consent requirements under the TANK rules include:

- Use of production land;
- Discharge of treated site stormwater and process water to land (crop irrigation) within a Source Protection Zone; and
- Temporary take of groundwater by dewatering associated with the construction of new stormwater and process water treatment facilities.



Table 4: TANK Rules

Rule / Activity	Conditions / Standards / Terms	Assessment
<p>TANK 5 Controlled Use of Production Land</p>	<ul style="list-style-type: none"> a) Any change to the production land use activity commencing after 2 May 2020 is over more than 10% of the property or farming enterprise area. b) The production land is subject to a Catchment Collective Programme meeting the requirements of Schedule 30B by a TANK Catchment Collective which meets the requirements of Schedule 30A. c) The Council may require information to be provided about production land use changes (note that the Schedule 30 requires collectives to record land use changes) 	<p>Not Relevant</p> <p>Area to be irrigated with treated stormwater and process water is already used for cropping and irrigation.</p>
<p>TANK 9 Restricted Discretionary Take and use groundwater (Heretaunga Plains)</p>	<ul style="list-style-type: none"> a) The activity does not comply with the conditions of Rule TANK 8. b) An application is either for the continuation of a water take and use previously authorised in a permit that was issued before 2 May 2020 or is a joint or global application that replaces these existing water permits previously held separately or individually. Actual and Reasonable Re-allocation c) The quantity taken and used for irrigation is the actual and reasonable amount. d) The quantity taken and used for municipal, community and papakāinga water supply is: <ul style="list-style-type: none"> (i) the quantity specified on the permit being renewed; or (ii) any lesser quantity applied for. e) Other than as provided in (c) or (d) the quantity taken and used is the least of: <ul style="list-style-type: none"> (i) the quantity specified on the permit due for renewal or 	<p>Not Relevant</p> <p>The application for a temporary dewatering take is not provided for by Rule 9.</p>



Rule / Activity	Conditions / Standards / Terms	Assessment
	<p>(ii) any lesser quantity applied for</p> <p>(iii) the maximum annual water use in any one year within the 10 years preceding 1 August 2017 (including as demonstrated by accurate water meter records).</p> <p>Advisory Note: Any application to change water use as specified under (c) (d) or (e) may trigger a consent requirement under Rules TANK 5 or 6</p>	
<p>TANK 11</p> <p>Discretionary</p> <p>Groundwater and Surface water take (low flow)</p>	<p>a) The activity does not comply with the conditions of Rules TANK 9 or TANK 10.</p> <p>b) Either</p> <p>(i) The application is either for the continuation of a water take and use previously authorised in a permit that was issued before 2 May 2020 or is a joint or global application that replaces these existing water permits previously held separately or individually in the following Management Units;</p> <p>i. Ahuriri</p> <p>ii. Poukawa</p> <p>iii. Ngaruroro groundwater</p> <p>iv. Tūtaekurī groundwater</p> <p>v. Heretaunga Plains</p> <p>or</p> <p>(ii) The total amount taken, either by itself or in combination with other authorised takes in the same water management unit does not cause the total allocation limit in the relevant management unit as specified in Schedule 31 to be exceeded except this clause does not apply to takes for:</p> <p>i. frost protection;</p>	<p>Not Relevant</p> <p>The separate application for a temporary dewatering take is not provided for by TANK. Activity status defaults to relevant rules under the RRMP (above).</p>



Rule / Activity	Conditions / Standards / Terms	Assessment
	<ul style="list-style-type: none"> ii. takes of water associated with and dependant on release of water from a water storage impoundment. 	
<p>TANK 22</p> <p>Restricted discretionary</p> <p>Discharge of stormwater to water or onto land where it may enter water from any industrial or trade premises</p>	<ul style="list-style-type: none"> a) An application for resource consent must include an Urban Site Specific Stormwater Management Plan (Schedule 34) b) The diversion and discharge; <ul style="list-style-type: none"> (i) shall not cause permanent bed scouring or bank erosion of land or alter the natural course of any water body (ii) shall not cause or contribute to flooding of any property, (iii) shall not cause any permanent reduction in the ability of the receiving environment to convey flood flows (iv) shall not contain hazardous substances c) The diversion and discharge shall not cause any of the following to occur after reasonable mixing: <ul style="list-style-type: none"> (i) production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials (ii) any emission of objectionable odour (iii) any conspicuous change in colour or the visual clarity (iv) result in any freshwater becoming unsuitable for consumption by farm animals (d) The diversion and discharge shall not cause to occur or contribute to: <ul style="list-style-type: none"> (i) the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water 	<p>Restricted Discretionary Consent Required</p> <p>Discharge of stormwater, as a component of the total discharge to land will comply with Rule TANK 22 terms.</p>



Rule / Activity	Conditions / Standards / Terms	Assessment
	<p>(ii) the discharge of microbiological contaminants, including sewage, blackwater, greywater or animal effluent.</p> <p>e) There is no reticulated stormwater network at the property boundary</p> <p>f) Any structure associated with the point of discharge or diversion is maintained in a condition such that it is clear of debris, does not obstruct fish passage and is structurally sound.</p>	

Table 5: Summary of Regional Plan Consent Requirements

Core Activity	Specific Activity	Rule	Activity Status and Consent Type
Discharges to air	To discharge contaminants into the air from the operation and maintenance of a sulphuric acid and fertiliser manufacturing plant at Awatoto including all ancillary activities.	Rule 28 of the RRMP	Discretionary – Discharge Permit
Discharges to land and water	To discharge treated stormwater and process water and associated contaminants from a sulphuric acid and fertiliser manufacturing plant at Awatoto onto or into land and into water (Waitangi Estuary) in the Coastal Margin.	Rule 9 of the RCEP Reg 54(c) of the NESFW	Discretionary - Coastal Permit Non-complying activity consent
	To temporarily discharge dewatering water associated with the construction of new stormwater and process water treatment facilities onto or into land and into water (Waitangi Estuary) in the Coastal Margin.	Rule 9 of the RCEP	Discretionary - Coastal Permit
	To discharge treated stormwater and process water and associated contaminants from a sulphuric acid and fertiliser manufacturing plant at Awatoto to land in circumstances where contaminants will be absorbed by crops	Rule 52 of the RRMP	Discretionary - Discharge permit



Core Activity	Specific Activity	Rule	Activity Status and Consent Type
	and soils and/or may enter shallow groundwater.		
	To discharge treated stormwater from a sulphuric acid and fertiliser manufacturing plant at Awatoto to land in circumstances where contaminants will be absorbed by crops and soils and/or may enter shallow groundwater.	Rule TANK 22	Restricted Discretionary - Discharge Permit
Water Take	To take up to 13,477 m ³ of groundwater per week from well numbers 15986 and 15989 for the following industrial uses: <ul style="list-style-type: none"> • The manufacture of sulphuric acid and fertilisers; • The treatment of stormwater and process water including sustaining constructed treatment wetlands and the maintenance of crop cover on the discharge to land area (shown on Plan B); and • Sustain an artificial wetland within the Waitangi Regional Park. 	Rule 35 of the RCEP	Discretionary – Coastal Permit
	To temporarily take groundwater by dewatering associated with the construction of new stormwater and process water treatment facilities.	Rule 55 of the RRMP	Discretionary – Water Permit
Land use	Vegetation clearance and soil disturbance activities in the Coastal Margin associated with: <ul style="list-style-type: none"> • Erection, reconstruction, placement, alteration, extension, removal, or demolition of stormwater and process water treatment and discharge structures; and • Wetland restoration activities. 	Rule 8 of the RCEP Reg 54(b) of the NESFW Reg 42 of the NESFW Reg 39 of the NESFW	Restricted Discretionary – Coastal Permit Non-complying activity consent Restricted Discretionary Activity Restricted Discretionary Activity



5.5 CITY OF NAPIER DISTRICT PLAN

5.5.1 Relevant Main Industrial Zone Conditions

With respect to proposed activities occurring in the Main Industrial Zone, Table 6 sets out the relevant conditions along with an assessment of the proposal's compliance or otherwise.

Table 6: Compliance Assessment of Permitted Industrial Activities in the Main Industrial Zone

Rule and Conditions	Compliance Assessment
<p>23.11 Yards</p> <p>a) Front Yards - any part of a building must not be erected closer than 2m to the road boundary or 6m for transport depots.</p> <p>b) Other Yards - there is no side or rear yard requirement except that part of a building (including eaves and guttering), fence or permanently fixed structure must not be erected closer than 6 metres from the top of the bank of any watercourse or open drain; nor closer than 6m from the boundary of any land zoned other than Industrial, and that a minimum of a 2 metre wide landscaped area must be provided within this yard parallel to the boundary. This landscaped area must create a visual screen between the site and the zone boundary to a height of at least 1.8 metres.</p>	<p>Complies</p> <p>All new buildings (including clarifier, bioretention, holding pond, and constructed wetland structures) comply with these conditions.</p>
<p>23.12 Height in Relation to Boundary</p> <p>Any part of a building or structure must not project beyond a building envelope constructed by drawing planes along all parts of all site boundaries. The planes must commence 7.5 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 65 degrees. Provided that where the site adjoins any land zoned other than industrial, the planes must commence 3.0 metres above ground level at the site boundary and must be inclined to the horizontal at an angle of 45 degrees.</p>	<p>Complies</p> <p>All new buildings (including clarifier, bioretention, holding pond, and constructed wetland structures) comply with these conditions.</p>



Rule and Conditions	Compliance Assessment
<p>23.13 Site Coverage</p> <p>Gross building area must not exceed 75% of the net site area.</p>	<p>Complies</p> <p>All new buildings (including clarifier, bioretention, holding pond, and constructed wetland structures) will not result in non-compliance with this site coverage condition.</p>
<p>23.14 Outdoor Storage</p> <p>Must: comply with the yard and height in relation to boundary conditions; be screened from view from any public open space to a minimum height of 1.8m; and be located on sealed and drained areas if they consist of material likely to generate leachate.</p>	<p>Not relevant</p> <p>No additional outdoor storage is proposed.</p>
<p>23.15 Noise</p> <p>The following noise limits apply beyond the site boundary at all times: 70dB LAEQ (15 min) and 85dB LAF max.</p>	<p>Complies</p> <p>The proposed improvements to the site's stormwater and process water management and treatment are not expected to result in any change to noise power levels beyond the site boundary.</p>
<p>23.16 Light Spill</p> <p>Between 10pm and 7am a maximum illuminance of 15 lux, measured at a height of 1.5m above ground level beyond the zone boundary; and lighting must not result in glare causing adverse effects to the occupants of residential activities or road users.</p>	<p>Not relevant</p> <p>The proposal does not include any additional lighting.</p>
<p>23.17 Vibration</p> <p>Land uses must not result in vibration that causes an unreasonable adverse effect on any adjacent land use.</p>	<p>Complies</p> <p>The proposed improvements to the site's stormwater and process water management and treatment are not expected to result in any change to vibration.</p>
<p>23.19 Fences</p> <p>If in a front, rear or side yard must not exceed 2m in height.</p>	<p>Not relevant</p> <p>The proposal does not involve any additional fencing.</p>
<p>23.20 Aerials, lines and support structures</p> <p>Must not exceed 20m in height and must comply with the height in relation to boundary conditions.</p>	<p>Complies</p>



Rule and Conditions	Compliance Assessment
	Any additional lines (e.g. communication or electricity) and associated supports will comply.
<p>23.21 Roof Surfaces</p> <p>Shall be constructed from inert materials or painted with non-metal based paint and thereafter maintained in good order.</p>	<p>Not relevant</p> <p>No conventional roof surfaces are proposed</p>
<p>23.24 Earthworks</p> <p>Requires compliance with the relevant conditions of the Earthworks Chapter 52A.</p>	<p>Does not comply</p> <p>Under the District Plan, the permitted earthworks volume within the Main Industrial Zone is 50m³ per site in a 12-month period. Permitted earthworks must also be no closer than 50m from a flood protection structure.</p> <p>In some cases, Rule 52A.8 provides exemptions from requiring a resource consent if permitted activity standards are not met. None of these exemptions apply in the case of this proposal.</p> <p>Since the earthworks proposed will be in excess of 50m³ in a 12-month period, and some earthworks will occur within 50m of the existing stopbank structure, the proposal requires a land use consent for earthworks in the Main Industrial Zone in accordance with Restricted Discretionary rule 52A.9</p>
<p>23.25 Signs</p> <p>The relevant provisions of Chapter 58 Signs must be complied with.</p>	<p>Not relevant</p>
<p>23.27 Transport</p> <p>The relevant provision of Chapter 61 (Transport) must be complied with. These include District Plan conditions relating to vehicle access and onsite car parking and manoeuvring. The on-site car parking requirement for industrial activities is 1 park per 100m² gross floor area.</p>	<p>Complies</p> <p>The proposed improvements to the site's stormwater and process water management and treatment, and their operation, are not expected to result in any change to existing traffic generation or parking requirements.</p>



Rule and Conditions	Compliance Assessment
<p>23.28 Natural Hazards</p> <p>The relevant provision of Chapter 62 (Natural Hazards) must be complied with.</p>	<p>Does not comply</p> <p>The light blue outlined area that traverses the south eastern corner of the Ravensdown site (Figure 2) is a 'River Hazard' area. Any activity within this area would be subject to the provisions of the Natural Hazards section of the District Plan (Chapter 62).</p> <p>These include rule 62.13c, which makes any activity within the River Hazard Area a discretionary activity (with the exception of various listed flood mitigation and network utility works).</p> <p>The implication of this is that any buildings or site works undertaken within the River Hazard portion of the site relating to Ravensdown's activities would require resource consent.</p> <p>The proposal includes wetland restoration activities and any associated earthworks within this River Hazard area requires a land use consent for in a Natural Hazard Area (River Hazard) in accordance with Discretionary rule 62.13(c)</p>
<p>23.29 Hazardous Substances</p> <p>The relevant provision of Chapter 63 (Hazardous Substances) must be complied with.</p>	<p>Complies</p> <p>Chapter 63 makes any 'Major Hazardous Facility' a discretionary activity under rule 63.11. The District Plan definition of Major Hazardous Facility includes the following:</p> <p><i>means any facility which involves one or more following activities:</i></p> <p><i>Manufacturing of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints) ...</i></p> <p>Accordingly, any new buildings and development associated with the manufacture of fertilisers would trigger</p>



Rule and Conditions	Compliance Assessment
	<p>the need for a discretionary activity resource consent from NCC.</p> <p>The nature and scale of existing and future manufacturing on the site is considered to be authorised by existing use rights.</p>
<p>23.32 Financial Contributions</p> <p>The relevant provision of Chapter 65 (Financial Contributions) must be complied with.</p>	<p>In regard to industrial activities Chapter 65 requires payment of financial contributions for each subsequent unit of development. Table 2 sets out contributions payable for Council services which would include a 'roads and transportation contribution'. This contribution however only appears to apply on the basis of new lots created. The separate development contributions policy however includes a statement indicating that if the development is likely to result in an increase in vehicle movements, then a development contribution would be taken.</p> <p>The proposed improvements to the site's stormwater and process water management and treatment, and their operation, are not expected to result in any change to existing traffic generation.</p>

Table 7: Summary of District Plan Consent Requirement

Napier City Council Jurisdiction			
Earthworks	Earthworks in the Main Industrial Zone.	Rule 52A.9 of the NCDP	Restricted Discretionary - Land Use Consent
	The disturbance of soils in HAIL areas.	Regulation 9 (1) of the NESCS	Controlled – NES Consent
Wetland Restoration Activities	Undertake wetland restoration activities, including associated earthworks and structures, within a Natural Hazard Area (River Hazard).	Rule 62.13(c)	Discretionary - Land Use Consent



5.6 BUNDLING

The "bundling" approach derives from case law rather than being explicitly set out under the RMA. Good resource management practice generally requires all the resource consents for a project to be identified at the outset and all applications should be made together to enable them to be considered jointly or concurrently. The guiding principle for bundling is that where there are activities on one site that are closely associated with each other or are directed towards one dominant use or purpose, they should be assessed holistically as a single bundle and in accordance with the most restrictive activity status contained within the bundle of activities being considered. This is done separately for each relevant jurisdiction. In addition, recognising that, from a practical perspective, the proposed water and land use related activities are fundamentally different to the proposed air discharges, bundling in this instance has also been done separately for these grouped types of activity.

5.7 OVERALL STATUS OF ACTIVITIES - REGIONAL COUNCIL JURISDICTION

5.7.1 Water and Land Use Activities

Regional Plans

Overall, under the RCEP, RRMP and TANK documents, the project will require a range of water and land use related activities requiring resource consents for **Controlled, Restricted Discretionary** and **Discretionary Activities**.

NESFW

In addition to any district and regional consenting requirements for activities affecting wetlands and freshwater, resource consents will be required under the NESFW for:

- **Non-complying Activities**, including:
 - Earthworks occurring within and within the 10m setback of a wetland associated with upgrades to the settling pond;
 - Discharges from the settlement pond occurring within a natural wetland (Waitangi Estuary); and
- **Restricted Discretionary Activities**, including:
 - The construction of wetland utility structures; and
 - Restoration activities in a natural wetland including; vegetation clearance, earthworks and all associated water takes, diversions and discharges including the discharge of environmental flows of groundwater and treated stormwater for the purpose of sustaining a new/restored wetland.

Overall Activity Status Water and Land Use Activities

When applying the ‘bundled’ approach to the water and land use related activities requiring resource consent from the Regional Council, the project falls to be considered a **Non-complying Activity**.

5.7.2 Air Discharge Activities

Regional Plans

Under the RRMP, the proposed air discharge activities are a **Discretionary Activity**.

Overall Activity Status Air Discharge Activities

The overall activity status of the applicant’s proposed discharges to air is **Discretionary**.

5.8 OVERALL STATUS OF ACTIVITIES - DISTRICT COUNCIL JURISDICTION

NESCS

Controlled Activity land use consent under Regulation 9(1) is required for disturbance of soil.

District Plan

The proposal’s inclusion of wetland restoration activities, including associated earthworks, within a Natural Hazard Area (River Hazard) is a **Discretionary Activity** under the District Plan.

Overall Activity Status

When applying the ‘bundled’ approach to the land use related activities requiring resource consent from the District Council, the project falls to be considered a **Discretionary Activity**.



6 REGULATORY ASSESSMENT

The RMA is the primary legislative document guiding national and regional policy in New Zealand. An assessment of the relevant National Environmental Standards, National Policy Statements, , Regional Policy Statement, Regional Plan, District Plan and Proposed Plan Changes developed under the RMA has been undertaken in regard to the proposed activities at the Napier Works.

6.1 NATIONAL ENVIRONMENTAL STANDARDS FOR AIR QUALITY

The NESAQ came into effect on 8 October 2004 and was further amended in 2011. The regulations made under the RMA aim to set a guaranteed minimum level of health protection for all New Zealanders.

In 2020, MfE also sought feedback on additional proposed amendments to the NESAQ for particulate matter and mercury. The amendments proposed in relation to particulate matter were in response to improved scientific knowledge of the health effects of small particulates. They look to transition the requirements of the NESAQ from managing PM₁₀ to a focus instead on PM_{2.5}. The proposed amendments in relation to mercury emissions are designed to help New Zealand meet its obligations under the Minamata Convention on Mercury.

6.1.1 Air Quality Standards

Currently, the NESAQ applies standards to five contaminants, being PM₁₀, Carbon monoxide (CO), Nitrogen dioxide (NO₂), Sulphur dioxide (SO₂), and Ozone (O₃), and also places restrictions on home heating appliances and hazardous waste combustion. The relevant standards to the Napier Works are those for PM₁₀ and sulphur dioxide as detailed in 8 below. It is noted that the standards are replicated in Schedule 10 of the RRMP.

Table 8: Ambient air quality standards for contaminants - NESAQ, Schedule 1

Contaminant	Threshold Concentration	Averaging Period	Allowable Exceedances per Year
Carbon monoxide	10 mg/m ³	8 hour	1
Nitrogen dioxide	200 µg/m ³	1 hour	9
Ozone	150 µg/m ³	1 hour	0
PM₁₀	50 µg/m³	24 hour	1
Sulphur dioxide	350 µg/m ³	1 hour	9
	570 µg/m ³	1 hour	0



Clauses 17 and 21 of the NESAQ (reproduced below) relate to resource consent applications for the discharge into gazetted airsheds of PM₁₀ and sulphur dioxide respectively. These clauses require a council to decline a resource consent application if that discharge were to increase the contaminant levels in that airshed.

Resource consents for discharges of PM10

17 Certain applications must be declined unless other PM10 discharges reduced

- (1) A consent authority must decline an application for a resource consent (the proposed consent) to cof PM₁₀ (calculated as a 24-hour mean under Schedule 1) by more than 2.5 micrograms per cubic metre in any part of a polluted airshed other than the site on which the consent would be exercised.

....

21 Resource consents for discharge of sulphur dioxide

A consent authority must decline an application for a resource consent to discharge sulphur dioxide into air if the discharge to be expressly allowed by the resource consent is likely, at any time, to cause the concentration of sulphur dioxide in the airshed to breach its ambient air quality standard.

Assessment:

The Awatoto airshed is monitored by the HBRC.

It is noted that a comprehensive air quality assessment has been undertaken by Tonkin + Taylor. This included a comparison of dispersion modelling results with relevant air quality guidelines for the protection of human health. The modelling results show that the future site will achieve the following:

- At locations where human exposure is relevant, predicted cumulative concentrations of PM₁₀ is low relative to the standard; and
- SO₂ concentrations that are well within the relevant ambient air quality standards for the protection of human health.

Therefore, there is no impediment to granting resource consent under the NESAQ.

6.2 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (“NESCS”) came into effect on 1st January 2012. The NESCS aims to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed, and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use.

As discussed above in Section 5, an NESCS consent is required for disturbance of contaminated land within the site. The applicant has prepared a DSI in support of their proposal. Included in the DSI is a Safe Work Method Statement to protect outdoor workers. The DSI also recommends a Contaminated Soils Management Plan (CSMP) be developed and implemented on the site to control identified exposure pathways during development works.

Provided the construction earthwork activities are undertaken in accordance with the recommended method statement and an appropriate CSMP, disturbed contaminants within site soils will not cause an unacceptable risk to human health.

6.3 NATIONAL ENVIRONMENTAL STANDARD FOR SOURCES OF DRINKING WATER

The NESDW came into force in June 2008. They set requirements for protecting sources of human drinking water from becoming contaminated. The MfE has proposed various amendments to the NESDW as part of the drinking water regulatory reforms being progressed through the Three Waters Review.

6.3.1 The Standards

The NESDW requires regional councils to ensure that effects of activities on drinking water sources are considered in decisions on resource consents and regional plans.

Under the NESDW, regional councils are required to:

- decline discharge or water permits that are likely to result in community drinking water becoming unsafe for human consumption following existing treatment;
- be satisfied that permitted activities in regional plans will not result in community drinking water supplies being unsafe for human consumption following existing treatment; and
- place conditions on relevant resource consents that require notification of drinking water suppliers if significant unintended events occur (e.g, spills) that may adversely affect sources of human drinking water.

For the purpose of the NESDW, a human drinking water source is a natural water body such as a lake, river or groundwater that is used to supply a community with drinking water. The standard applies to source water before it is treated to supply human drinking water (i.e, not stock or other animals).

Local registered drinking water supplies are shown in Figure 9 (Hastings and Napier City Districts).



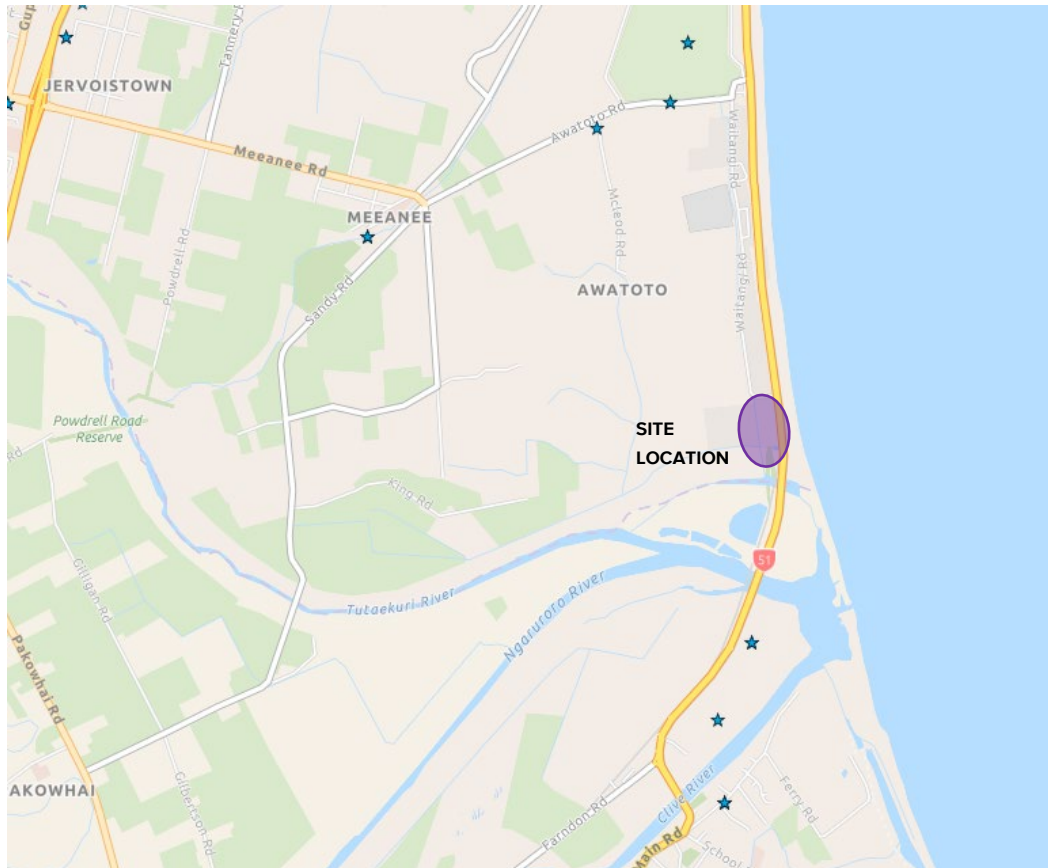


Figure 12: Map of site and surrounds showing locations of registered drinking water supplies (Source HBRC Web Site – NES Drinking Water Page)

6.3.2 Assessment

Overall, the proposal will ensure that, following current levels of potable water treatment, local community drinking water supplies will not become unsafe for human consumption due to a combination of the following factors:

- The presence of thick impermeable layers of sediments that overlie, confine and protect the water used for drinking;
- the proposed management and control of contaminant sources on site;
- the proposed treatment systems for site stormwater and process water;
- the ability for local soils and crops to absorb residual contaminants; and
- the proposed management and monitoring systems to be implemented for this activity.

As a result, and in respect of the requirements of the NESDW, there is no reason for the proposed discharge to land consent to be declined.



The applicant also proposes appropriate local drinking water supplier notification protocols that it will follow in the unlikely event of a spill, or other event, that may adversely affect local groundwater within the Napier Water Source Protection Zone.

Overall, the proposal is consistent with the NESDW.

6.4 OTHER REGULATIONS

6.4.1 Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020

The Measurement and Reporting of Water Takes regulations stipulate certain minimum water recording and reporting requirements for all water takes exceeding 5 litres per second.

The groundwater takes proposed as part of this application will exceed this threshold. Accordingly, as part of any new water permits that may be granted for this take, the applicant accepts appropriate conditions that align with these regulations.

6.5 NEW ZEALAND COASTAL POLICY STATEMENT 2010

6.5.1 Purpose and site application

The NZCPS is a national policy statement under the RMA and took effect in December 2010.¹⁰ The purpose of the NZCPS is to state policies to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. Section 104(1)(b)(iv) of the RMA requires that when considering an application for resource consent, regard must be had to any relevant provisions of a NZCPS.

As described above, the settling pond, the discharge point and a portion of the southern part of the Napier Works fall within the 'Coastal Environment' as defined in the RCEP. The location of the discharge to water is also within 'Coastal Hazard Zone 1' and a Vegetation Clearance Management Area, also defined in the RCEP.

The discharge point is not within the CMA but associated contaminants will enter the CMA downstream (albeit in a much diluted form).

6.5.2 Key policies

Themes covered within the NZCPS specifically relevant to the Napier Works and the resource consent renewal proposal include those relating to:

¹⁰ This NZCPS took effect after decisions on submissions on the RCEP were notified in July 2008, therefore the RCEP cannot be taken as having given effect to the NZCPS.

- tangata whenua values (Policy 2);
- indigenous biodiversity (Policy 11)
- natural character (Policy 13);
- natural features and landscapes (Policy 15);
- discharge of contaminants (Policy 23); and
- coastal hazards (Policy 25).

6.5.3 Policy 2 (The Treaty of Waitangi, tangata whenua and Māori)

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.

Assessment:

The development of this proposal has involved a highly considered options analysis and assessment process. This process has involved input and direction from tangata whenua who, notably, were of the view that a land-based method for discharging stormwater and process water from the site was the most appropriate from a cultural perspective. Accordingly, the feasibility of this option was investigated by the applicant and has become a cornerstone of the overall site discharge management system being proposed.

Tangata whenua are also a partner in the HARP.

In developing this consent renewal application, the applicant has adopted an inclusive and transparent approach with tangata whenua - embracing the concept of kaitiakitanga and enabling tangible opportunities for mana whenua to exercise it. The partnership approach taken to HARP also aligns well with the principles of Te Tiriti o Waitangi. It follows that the process used to develop this proposal, and the proposal itself, are both highly consistent with Policy 2 of the NZCPS.

6.5.4 Policies 11 (Indigenous biological diversity), 13 (Preservation of natural character) and 15 (Natural features and natural landscapes)

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



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

A similar cascading management approach is set out within Policy 13 with respect to natural character. Specifically, Policy 13(a) seeks to preserve natural character and protect it from 'inappropriate use and development' by avoiding adverse effects of activities in areas of outstanding natural character. Policy 13(b) requires a lesser level of protection for natural character areas that are not 'outstanding' and states that significant adverse effects on natural character are to be avoided, and all other effects on natural character are to be avoided, remedied or mitigated.

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

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

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

¹¹ Note that decision makes exceptions for minor or transitory effects.



Assessment:

Any adverse effects on significant indigenous biological diversity needing to be avoided?

In this case, for any areas of significant indigenous biodiversity value within the Waitangi Estuary, any adverse effects that may arise as a result of the proposed activities will need to be avoided.

Significant indigenous biodiversity includes (from Policy 11(a)):

- i. indigenous taxa that are listed as threatened⁵ or at risk in the New Zealand Threat Classification System lists;
- ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
- iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
- iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
- v. areas containing nationally significant examples of indigenous community types; and
- vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation.

The only species recorded in the Waitangi Estuary meeting the above definition is the Australasian Bittern (nationally critical conservation status). In this respect, it is noted that Bittern have only recently been recorded in the Waitangi Estuary and not in an area where the current and proposed future discharges are located. In addition, the HARP will result in additional wetland habitat, thereby resulting in a positive effect for this species. Overall, the proposal is not inconsistent with Policy 11.

Any adverse effects on outstanding natural character, features or landscapes needing to be avoided

The decisions version of Proposed Plan Change 7 – Outstanding Water Bodies sets out, in Schedule 25, the screening criteria enabling the identification of water bodies and/or estuaries that have one or more outstanding cultural and spiritual, recreation, landscape, geology, natural character or ecology value(s). This Schedule also lists Hawke’s Bay water bodies that meet these criteria. Notably, the Waitangi Estuary is not included on the list of Outstanding Waterbodies. Taiwhenua o Heretaunga, Te Runanganui o Heretaunga, Te Manaaki Taiao o Heretaunga and Ngati Kahungunu Iwi Incorporated have appealed this decision and requested that the Waitangi Estuary be included in Schedule 25.

Although it is acknowledged that Plan Change 7 appeals are yet to be resolved, based on the premise that the decisions version does not currently identify the Waitangi Estuary as



an outstanding water body, it follows that this water body does not currently have any outstanding values and is not currently an outstanding natural feature. To these extents there are currently no adverse effects requiring avoidance under Policies 13 and 15.

Significant adverse effects on less sensitive or significant values needing to be avoided

With respect to other less sensitive or significant indigenous biodiversity, natural character, natural features and natural landscapes, a lower threshold applies whereby only significant adverse effects are required to be avoided, and mitigation and remediation is also available as a management response.

The various technical assessments undertaken in respect of this proposal do not identify any significant adverse effects associated with the future high-tide discharges of treated stormwater and process water to the Waitangi Estuary.

The proposals to upgrade on-site stormwater management systems, implement additional stormwater and process water treatment systems, reduce discharge volumes to the estuary, and only discharge when climatic and soil moisture conditions don't allow irrigation to land, significantly mitigate the site's environmental effects. In addition, the HARP provides opportunities to remediate degraded local wetlands and ecological habitat.

In light of these aspects, it is considered the proposal is consistent with Policies 11, 13 and 15 of the NZCPS.

6.5.5 Policy 23 (Discharge of contaminants)

When managing discharges to water in the coastal environment, Policy 23 of the NZCPS requires decision makers to have particular regard to:

- a. *the sensitivity of the receiving environment;*
- b. *the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and*
- c. *the capacity of the receiving environment to assimilate the contaminants;*
and:
- d. *avoid significant adverse effects on ecosystems and habitats after reasonable mixing;*
- e. *use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and*
- f. *minimise adverse effects on the life-supporting capacity of water within a mixing zone.*



Assessment:

All of the matters listed in Policy 23 have collectively influenced the following processes and activities undertaken and/or proposed by the applicant:

- The scale and scope of baseline monitoring and assessment;
- The final discharge to water strategy;
- The formulation of the discharge to water project description;
- The technical water quality and ecological effects assessment undertaken; and
- Future management and monitoring.

To this extent, the manner in which the applicant's proposal has been developed and assessed aligns very closely with the matters listed in Policy 23. Furthermore, as concluded by Streamlined Environmental Ltd, significant improvement in water quality is predicted following the introduction of the proposed treatment devices in conjunction with the overall discharge management strategy. Additionally, and despite the expectation that some guideline exceedances will continue due to existing high upstream concentrations of some contaminants, Streamlined Environmental Ltd concludes that there is no evidence to indicate the existing discharge is having more than a minor effect on ecological values beyond the mixing zone, and that the future improvement in water quality is likely to have a positive effect on the existing low ecological values.

6.5.6 Policy 25 (Coastal hazards)

Policy 25 of the NZCPS states:

In areas potentially affected by coastal hazards over at least the next 100 years:

- avoid increasing the risk¹⁰ of social, environmental and economic harm from coastal hazards;*
- avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;*
- encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;*
- encourage the location of infrastructure away from areas of hazard risk where practicable;*
- discourage hard protection structures and promote the use of alternatives to them, including natural defences; and*
- consider the potential effects of tsunamis and how to avoid or mitigate them.*

Assessment:

Although the site's discharge enters Coastal Hazard Zone 1, the only other activities proposed in this zone are wetland restoration activities. Neither of these activities are expected to induce any increased coastal hazard risk or exacerbate any existing adverse effects from coastal hazards.

6.5.7 Overall Assessment

Overall, the proposal is consistent with the NZCPS.

It is also noted that the NZCPS took effect after decisions were made on submissions on the RCEP, which were notified in July 2008. This means that the RCEP (discussed later) cannot be taken as having given effect to the NZCPS, therefore necessitating the assessment of applications against the NZCPS as part of any discretionary or non-complying resource consent application under the RCEP. It is also noted that for this reason the NZCPS carries greater weight in this planning assessment.

6.6 NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT

The National Policy Statement for Fresh Water Management 2020 ("NPSFM") provides direction to local authorities and resource users regarding activities that affect the health of freshwater and sets out objectives and policies for freshwater management under the RMA.

The NPSFM came into force on 3 September 2020, replacing the previous 2014 NPSFM. Amongst other things, the NPSFM 2020:

- Sets out a framework of objectives and policies to manage activities affecting freshwater in a way that prioritises first, the health and well-being of water bodies and freshwater ecosystems, second, the health needs of people, and third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- Requires regional councils to develop long-term visions for freshwater in their region and include those long-term visions as objectives in their regional policy statement.
- Requires every local authority to actively involve tangata whenua in freshwater management.
- Sets out a more expansive National Objectives Framework, and Freshwater Management Unit, environmental flow and level setting, and take limit setting processes. This includes 13 new attribute states for ecosystem health, including national bottom lines and national targets.
- Specific requirements to protect streams and wetlands and to provide for fish passage – including new policies which must be included in all regional plans.



Part 2 of the NPSFM sets out the national objective for future freshwater management and 15 separate policies that support this objective.

The NPSFM Objective and relevant policies are considered further below:

Objective

- (1) *The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:*
- (a) *first, the health and well-being of water bodies and freshwater ecosystems*
 - (b) *second, the health needs of people (such as drinking water)*
 - (c) *third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

This proposal involves the production of superphosphate - an activity that supports the ability of Ravensdown, its employees and connected business owners and their employees, to provide for their social and economic well-being, now and in the future. To this extent, primarily, the proposal sits third on the NPSFM priority list. Nevertheless, the proposal also involves improvements to the quality, and significant reductions in the quantity, of the site's current discharges to the Waitangi Estuary. As a consequence, the applicant's commitment in this regard is likely to result in improvements to this receiving environment, and in turn, contribute towards improvements in the health and well-being of this water body. Additionally, assessments undertaken on the effects of the proposed land-based discharges show that the health needs of people, including those related to community drinking water supplies, will be appropriately protected.

Policies

Policy 1: *Freshwater is managed in a way that gives effect to Te Mana o te Wai.*

Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment.

This policy is achieved through the proposal's commitment to:

- minimise contaminants from becoming entrained in site stormwater and process water at source;
- invest in significant treatment facilities and processes, including bioretention filter, clarifier, constructed wetland and land-based irrigation of treated stormwater and process water to improve the quality of these discharges prior to them entering the environment; and

- reduce the volume of treated stormwater and process water being discharged to the Tūtaekurī River and Waitangi Estuary by adopting an operating policy that prioritises the discharge of these flows to land.

Policy 2: *Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.*

Policy 2 is primarily for regional councils to implement. However, Māori freshwater values have been considered as part of the cultural values assessment process undertaken by mana whenua in respect of this proposal. Furthermore, mana whenua have had active involvement in providing for these values through the TFG process, ultimately, influencing the applicant's final proposal.

Overall, the application is considered to be consistent with Policy 2 of the NPSFM.

Policy 3: *Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.*

The overarching approach to managing the effects of the site's activities includes consideration of the integrated nature of the local environment. As an example, the future discharge strategy recognises the ability to minimise potential water quality and ecological impacts on the Tūtaekurī River and Waitangi Estuary, including cumulative impacts associated with upstream point and non-point discharges to this catchment, by discharging during an outgoing tide. Integration is also achieved through the implantation of various connected management plans and the utilisation of groundwater to sustain the new/restored wetland proposed as part of HARP. Overall, the proposal is consistent with this policy.

Policy 7: *The loss of river extent and values is avoided to the extent practicable.*

No loss of river extent will result from this proposal. Partial avoidance of loss of Tūtaekurī River and Waitangi Estuary values is achieved by prioritising the diversion of treated discharges from the site away from these environments to adjacent land-based discharge facilities.

Policy 9: *The habitats of indigenous freshwater species are protected.*

As stated by Streamlined Environmental Ltd, there is no evidence to indicate that existing discharges from the site are having more than a minor effect on ecological values beyond the mixing zone.

Indigenous aquatic fauna species present both within and beyond the mixing zone will likely enjoy some level of additional protection in future as a result of the applicant's



proposal to implement additional minimisation at source systems, upgrade on-site pre-treatment processes, adopt strategic discharge protocols and introduce final land and vegetative crop-based treatment systems. This is evidenced by Streamlined Environmental Ltd concluding that the improvement in water quality expected from the applicant's proposal is likely to have a positive effect on the existing low ecological values. The HARP will also likely result in an enhancement of habitat for indigenous freshwater species.

Policy 11: *Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.*

Although groundwater resources are over-allocated in this area, the groundwater take proposed represents an overall net reduction in consented allocation of this resource. All water abstracted will be used efficiently and recycled where appropriate. Using a portion of abstracted groundwater to sustain the constructed wetland and land-based treatment area would not normally be considered an efficient use of water, however, this enables a far better environmental management outcome to be achieved compared with resulting nutrient release risks associated with a malfunctioning and decaying wetland and/or the loss of contaminant uptake by crops. Use of groundwater to sustain the new/restored HARP wetland results in a similarly positive outcome overall.

Policy 15: *Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.*

The proposal achieves the intention of policy 15 since it will enable the ongoing operation of the site which, in turn, enables people and communities to provide for their social, economic, and cultural well-being by sustaining significant employment and other flow-on benefits for Napier and the Hawke's Bay region more generally.

Subpart 3 Specific Requirements

Section 3.24 Rivers

(1) *Every regional council must include the following policy (or words to the same effect) in its regional plan(s):*

"The loss of river extent and values is avoided, unless the council is satisfied:

- (a) that there is a functional need for the activity in that location; and*
- (b) the effects of the activity are managed by applying the effects management hierarchy."*

As compared to the existing situation, the improvement in discharge quality and the reduction in discharge volume will result in lower adverse impact on river values, however, ongoing discharges will inevitably still result in some level of impact. To this extent, these losses in value are minimised but not avoided.

“Functional need” means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment. In the context of this case, and adopting a strict application of this definition, there is no functional need to continue discharges to the Tūtaekurī River and Waitangi Estuary. Other options are available (i.e., sea outfall or 100% land-based), albeit expensive and/or not practicable. Therefore, with total avoidance not being proposed, the council must be satisfied that the effects of the proposed discharge are able to be managed by applying the effects management hierarchy.

Turning to this hierarchy, it is noted that, as defined in Section 3.21 of the NPSFM, it only applies to natural inland wetlands. It follows that the Council should not apply this test in this instance. Notwithstanding, if the Council was of a mind to exercise its discretion by assessing the applicant’s approach to managing adverse environmental effects via the effects management hierarchy, then the proposal would achieve this test for the following reasons:

- A practicable level of avoidance of further loss of Tūtaekurī River and Waitangi Estuary values is achieved by prioritising the diversion of treated discharges from the site away from these environments to adjacent land-based discharge facilities;
- Residual effects are minimised through improved on-site management and upgraded and new treatment systems, and by limiting (where possible) discharges to the Tūtaekurī River and Waitangi Estuary on outgoing tides.

Although the above avoidance and minimisation initiatives are likely to result in adverse future effects being no more than minor, and therefore not require any offsetting, the applicant has nevertheless also proposed a wetland restoration project that will act to offset minor or less than minor adverse effects.

6.6.1 Overall Assessment

Overall, the proposal is consistent with the objective, policies and specific requirements of the NPSFM.

6.7 DRAFT NATIONAL POLICY STATEMENT ON INDIGENOUS BIODIVERSITY

The Government is proposing a National Policy Statement for Indigenous Biodiversity (NPSIB). Its purpose is to set out the objectives and policies to identify, protect, manage and restore indigenous biodiversity.

When finalised, the NPSIB will apply to indigenous biodiversity throughout New Zealand, other than –

- a) indigenous biodiversity in the coastal marine area; and



- b) indigenous biodiversity in waterbodies and freshwater ecosystems (as those terms are defined in the National Policy Statement for Freshwater Management 2019).

6.7.1 Overall Assessment

Since the proposal does not involve any impacts on indigenous biodiversity outside the CMA and outside fresh waterbodies and ecosystems, the NPSIB would not apply in this case.

6.8 HAWKE'S BAY REGIONAL COASTAL ENVIRONMENT PLAN

The RCEP sets out the framework for managing resource use activities within the coastal marine area of Hawke's Bay as well as the wider coastal environment. The future discharges to the Tūtaekurī River and Waitangi Estuary, the proposed groundwater take and the proposed wetland restoration activities within the coastal environment are the most relevant aspects of the proposal with respect to the RCEP. RCEP objectives and policies associated with these aspects are discussed and assessed below.

6.8.1 Part B – Matters of National Importance

Part C of the RCEP includes objectives and policies related to matters of national importance as set out in Section 6 of the RMA. Relevant RCEP objectives and policies relating to such matters are achieved by the applicant's proposal through a combination of the following factors:

- The applicant's involvement of mana whenua in the process of developing their proposal and in the formulation and implementation of HARP;¹²
- The proposal to improve the quality of, and reduce the quantity of, future site discharges to water;¹³
- The proposal to undertake wetland restoration works.¹⁴

6.8.2 Part C – Use and Development: Coastal Margin

Part C of the RCEP includes objectives and policies for surface water quality within the Coastal Margin. Those relevant to the proposal are set out and assessed below.

Surface Water Quality

Objective 9.1

The maintenance and enhancement of the water quality of rivers and lakes in order that the existing species and natural character are sustained, while providing for

¹² Objective 6.1, Policies 6.1, 6.4, 6.5, 6.7 and 6.8.

¹³ Objective 2.1, Policies 2.3, 2.4, 4.2 and 4.4.

¹⁴ Objective 2.1, Policies 2.9, 2.10, 2.11 and 4.5.



resource availability for a variety of purposes, including groundwater recharge, maintenance or enhancement of mauri, and the protection of aquatic ecosystems.

Policies

Policy 9.1 To manage the effects of activities affecting the quality of water in rivers, lakes and wetlands in accordance with the environmental guidelines set out in Table 9-1 and Table 9-2.

Table 9-1: Environmental Guidelines – Surface Water Quality (Guidelines that apply across the entire Coastal Margin).

These guidelines apply after reasonable mixing and disregarding the effect of any natural perturbations that may affect the water body, as set out in Policy 9.2.

Issue	Guideline
1. Temperature	The temperature of the water should be suitable for sustaining the aquatic habitat.
2. Dissolved oxygen	The concentration of dissolved oxygen should exceed 80% of saturation concentration.
3. Ammoniacal nitrogen	The concentration of ammoniacal nitrogen (N-NH4+) should not exceed 0.1 mg/l.
4. Soluble reactive phosphorus	The concentration of soluble reactive phosphorus should not exceed 0.015 mg/l.
5. Clarity	In areas used for contact recreation, the horizontal sighting range of a 200mm black disk should exceed 1.6 m.
6. Heavy metals	The concentration of heavy metals should not exceed the relevant limits contained in: (a) The contact recreation guidelines contained in 'Microbial Guidelines for Marine and Freshwater Recreational Areas' (Ministry of Health and Ministry for the Environment, June 2003); and (b) The guidelines for the protection of aquatic ecosystems contained in the 'Guidelines for Fresh and Marine Water Quality 2000' (ANZECC, 2000).

Table 9-2: Environmental Guidelines – Surface Water Quality (Guidelines that apply to specific catchments)¹⁵

These guidelines apply after reasonable mixing and disregarding the effect of any natural perturbations that may affect the water body, as set out in Policy 9.2.

Catchment Area	Faecal Coliforms (cfu/100ml)	Suspended Solids (mg/l)
Tūtaekurī River downstream of the Expressway Bridge	150	25

¹⁵ Guidelines included for Tūtaekurī River only.



6.8.3 Assessment

In terms of coastal margin water quality, the following observations are notable:

- Environmental Medicine Limited concludes that water discharge contaminants are identified as not hazardous to humans through contact recreation; and
- Streamlined Environmental Ltd concludes that;
 - Despite some likely future exceedances, there is no evidence to indicate that the existing discharge is having more than a minor effect on ecological values beyond the mixing zone;
 - Significant improvement in water quality is predicted following the introduction of treatment devices in conjunction with the overall discharge management strategy; and
 - The improvement in water quality is likely to have a positive effect on the existing low ecological values.

6.8.4 Groundwater Quantity

Objective 12.1

The maintenance of a sustainable groundwater resource.

Policy 12.1

To manage takes of groundwater to ensure abstraction does not exceed the rate of recharge.

Policy 12.2

To manage the available groundwater resource to ensure supplies of good quality groundwater.

Policy 12.3

To manage the groundwater resource in such a manner that existing efficient groundwater takes are not disadvantaged by new takes.

Policy 12.4

To manage takes of groundwater to ensure abstraction does not have an adverse effect on rivers, lakes, springs, or wetlands.

Policy 12.6

To manage the effects of activities affecting quantity of groundwater in accordance with the environmental guidelines set out in Table 12-1.



Table 12-1: Environmental Guidelines – Groundwater Quantity.

Issue	Guideline
1. Demand	The safe yield identified for an aquifer should not be exceeded by a single activity or the cumulative effect of more than one activity.
2. Effects of takes and uses on water quality	Takes should not contribute to the intrusion of salt water into fresh water aquifers.
3. Effects of takes on levels of rivers, lakes, springs and wetlands	Takes should not cause a reduction in the flow of rivers, levels of springs or lakes or ecologically significant wetlands.
4. Effects of new takes on existing authorised users	The take should not adversely impact on existing efficient groundwater or surface water takes unless written approval from affected persons is obtained.

6.8.5 Assessment

The applicant is already a lawful user of local groundwater. The historical and current usage has not resulted in any known adverse effects on other users.

A technical report prepared by Bay Geological Services Ltd confirms ongoing takes as proposed are not likely to result in significant adverse groundwater sustainability or stream or wetland depletion effects nor any saltwater intrusion concerns. Accordingly, there are no conflicts between what’s proposed in this respect and any RCEP objective or policies related to groundwater quantity.

Air Quality in The Coastal Margin

Although the location of the site’s discharges to air are outside the coastal margin, given the close proximity of the coastal margin, it is appropriate to consider any relevant ambient air quality and PM₁₀ guidelines set out in Policy 14.1 of the RCEP. These are reproduced in turn below.

6 Ambient Air Quality

- (a) *The ambient air quality must remain within the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.*
- (b) *Where no national environmental standards exist, the ambient air quality should remain within the New Zealand Ambient Air Quality Guidelines MFE 2002.*
- (c) *Where the existing ambient air quality is better than the concentrations specified in relevant national environmental standards and guidelines in (a) and (b) above, there should be no significant degradation of ambient air quality.*

7 Particulate matter – PM₁₀ levels

Concentrations of PM₁₀ in the Hastings Airshed and Napier Airshed shall be reduced using the following strategies:



- (a) *control discharges to air from industrial or trade premises and dwelling houses producing particulate matter;*
- (e) *ensure that the concentration of PM₁₀ emissions in the Napier and Hastings Airsheds do not increase, and are reduced over time.*

6.8.6 Assessment

As detailed earlier, the proposal's performance does not conflict with the NESAQ.

With respect to ambient air quality parameters that do not have a national environmental standard, the main discharges to air from the site are:

- fluoride and acid mist from the Manufacturing Plant; and
- PM_{2.5} from the Bradley Mills.

A comprehensive air quality assessment has been undertaken by Tonkin + Taylor. Dispersion modelling results were compared with relevant air quality guidelines for the protection of human health. This modelling shows that the future site will achieve the following:

- fluoride concentrations that are well within the relevant MfE guidelines for the protection of human health; and
- At locations where human exposure is relevant, predicted cumulative concentrations of PM_{2.5} will be low relative to the assessment criteria.

The modelling results also show that fluoride and SO₂ concentrations that are well within the relevant MfE guidelines for sensitive ecosystems with the exception of land to the immediate east of the site (former Winstone site and foreshore). In this regard, Plant and Food Research Hawke's Bay conclude that these modelled concentrations were below those likely to cause economic damage to crops in the Awatoto–Meeanee area, given the current distribution of crop species.

Coastal Hazards

The proposal is not likely to exacerbate any coastal erosion or increase any current risk posed by coastal hazards.¹⁶

6.8.7 Part D – Use and Development: Coastal Marine Area

Discharge of contaminants into CMA

¹⁶ Objectives 15.1, 15.2, and 15.3, Policy 15.1.

Although the discharges to the Coastal Environment do not enter the CMA directly, they are discharged in close proximity to the CMA boundary and associated contaminants will flow into the CMA albeit in a diluted form.

Relevant objectives and policies are achieved through the improvements that will result to the quality of future site discharges to water and the unlikelihood that proposed discharges will result in hazards to humans through contact recreation.¹⁷

6.8.8 Overall Assessment

Overall, the proposal is consistent with relevant objectives and policies within the RCEP.

6.9 HAWKE'S BAY REGIONAL RESOURCE MANAGEMENT PLAN

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

6.9.1 Regional Policy Statement

The RPS seeks to set out the strategic direction that the Hawke's Bay Regional Council and local authorities will take to achieve the purpose of the RMA. As the RPS is required to give effect to the NZCPS (and Part 2 of the RMA), its objectives contain similar themes to this higher order document.

The RPS is structured with three overarching objectives in 'Chapter 2 - Key Regional Policy Statement Objectives. Chapter 3 of the RRMP sets out the regionally significant objectives and policies and the Regional Plan objectives and policies are detailed in Chapter 5.

These are discussed below to the extent they are relevant to the proposal.

Section 2.3 Plan Objectives

Objective 1 of this section is particularly relevant to the Napier Works in terms of its reference in seeking to achieve sustainable management "*...while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.*"

Providing for the ongoing operation of the site as proposed satisfies this objective as demonstrated by the following highlights presented in the Economic Solutions assessment report:

- The collective group of Ravensdown business activities based in Napier is estimated to provide the following total economic impacts:

¹⁷ Objectives 16.1, 16.2, and 16.4, Policies 16.1 (1) and (2).



- For the Hawke’s Bay region: Revenue associated with total economic impacts \$229.57 million, Employment 501 persons, Net Household Income \$20.97 million and total Value Added/GRP \$73.96 million. On average, these economic impacts represent 1% of the regional totals for these economic impact measures.
- For the Napier City area: Revenue associated with total economic impacts \$144.62 million, Employment 232 persons, Net Household Income \$11.0 million and Value Added/GRP \$39.48 million.

The contribution of the Ravensdown operations to the development and prosperity of the Hawke’s Bay Region is therefore significant.

Section 3.1A Integrated Land Use and Freshwater Management

OBJ LW 1 of this section seeks to ensure fresh water and the effects of land use and development are managed in an integrated and sustainable manner. It is considered the activities proposed by the applicant align with this objective, particularly in terms of the proposal’s focus on source protection management plans and discharge mode diversification that recognises the benefits of land-based treatment (wetlands and crop irrigation) to achieve an overall lesser impact on the environment when managed appropriately.

Section 3.1B Managing the Built Environment

Among other things, the policies in this section of the RPS recognise the need to provide for future business activities in the Heretaunga Plains sub-region,¹⁸ and more specifically, promotes the utilisation, redevelopment and intensification of existing industrial land.¹⁹

Given the significant infrastructural investment at the Ravensdown Napier works site, the current proposal is consistent with this section of the RPA. The conclusions noted in respect of Objective 1 above are also relevant in this regard.

Section 3.2 The Sustainable Management of Coastal Resources

Relevant objectives relating to sustainable management of coastal resources²⁰ link to the themes of other objectives detailed within the RPS and to those of the NZPCS and RCEP. It is noted that there are no policies associated with these objectives of the RPS as these are included in the RCEP.

¹⁸ POL UD2.

¹⁹ POL UD2(c).

²⁰ Objectives 4, 6, 7 and 9.



Since the proposal is considered consistent with all relevant objectives and policies in the NZCPS and RCEP, it will be similarly consistent with RPS objectives relating to sustainable management of coastal resources.

Section 3.4 Scarcity of Indigenous Vegetation and Wetlands

The Waitangi Estuary is listed as one of the priority wetlands for preservation through the use of non-regulatory methods (being the provision of financial support from the HBRC).

As concluded by Streamlined Environmental Ltd,

- Despite potential for some future exceedances, there is no evidence to indicate that the existing discharge is having more than a minor effect on ecological values beyond the mixing zone;
- Significant improvement in water quality is predicted following the introduction of treatment devices in conjunction with the overall discharge management strategy; and
- The improvement in water quality is likely to have a positive effect on the existing low ecological values.

Further to this the HARP proposal will have a positive effect in improving the indigenous vegetation and ecological values of the Waitangi Estuary wetlands.

Accordingly, the proposal is not inconsistent with the relevant RPS objective²¹ and policies in this respect.²²

Section 3.5 Effects of Conflicting Land Use Activities

Objectives and policies in this section of the RPS address issues associated with the occurrence of off-site impacts or nuisance effects caused by the location of conflicting land use activities.

In this respect, it is noted that the Napier Works is long established at the site and offsite effects of the operation on surrounding land have been continually addressed during this time. The clustering of like industries within the industrial zone goes a long way in managing the effects the site may have on surrounding land use. Technical assessments undertaken in support of the proposal show that future activities at the site will not contribute to any increase in potential nuisance impacts for surrounding land users.

Section 3.8 Groundwater Quality

²¹ Objective 15.

²² Policy 4(b).

Objectives and policies in this RPS section address the risk of groundwater contamination arising from industrial land use practices and spills to avoid any quality degradation and ensure its quality is maintained or enhanced in order that it is suitable for human consumption and irrigation without any treatment.²³

The proposal introduces a new land-based treatment activity. This treatment mode will be prioritised to minimise impacts on the Tūtaekurī River, however, creates a potential contaminant pathway to local groundwater. Accordingly, the applicant has undertaken robust geohydrological investigations into the level of risk this poses to groundwater quality. Associated results and assessment show that the risk of contaminating local fresh groundwater resources is considered extremely low due to the following key mitigating factors:

- the presence of relatively thick layers of low permeability sediments that confine the deeper high permeability alluvial gravels used for drinking water supply;
- the degree of contaminant adsorption capacity available in the soils and by crops; and
- the management and monitoring proposed.

Section 3.9 Groundwater Quantity

The objectives in Section 3.9 of the RPS seek to avoid significant adverse effects from groundwater abstraction on the long-term quantity of groundwater aquifers and on surface water²⁴ while also avoiding or remedying effects on other existing lawful groundwater abstractors.²⁵

The proposed groundwater take for construction dewatering purposes is temporary in nature and is minor in scale. A technical report prepared by Bay Geological Services Ltd confirms ongoing takes as proposed are not likely to result in significant adverse groundwater sustainability nor effects on other ground water abstractors. As a result, this activity does not result in any adverse effects of a magnitude that would cause any concern in terms of relevant objectives and policies within Section 3.9 of the RPS.

Section 3.10 Surface Water Resources

This section includes various objectives and policies design to address potential degradation of values and uses of the region's surface water bodies including from point source discharges.

²³ Objectives 21 and 22, Policy 16.

²⁴ Objective 23.

²⁵ Objective 24.



Objectives, and related policies, in this section are of particular relevance to the values of the Tūtaekuri River and Waitangi Estuary. In this regard, the applicant's proposal is considered highly consistent with the desired management outcome of these. That is, the commitment to improve the quality and reduce the quantity of future discharges to these fresh water bodies is consistent with the desire to enhance overall surface water quality to achieve indirect ecological, cultural, and recreational benefits.

Section 3.13 Maintenance and Enhancement of Physical Infrastructure

Objective 32 of this section of the RPS is particularly relevant to this proposal. It states:

The ongoing operation, maintenance and development of physical infrastructure that supports the economic, social and/or cultural wellbeing of the region's people and communities and provides for their health and safety.

This objective (and others in this section) relate to 'infrastructure'. In this regard it is noted from paragraph 3.13.8 that: *"The region's major industries are largely dependent on production from the region's natural and physical resources, and are integrated economically and physically with transport, energy and communications systems. They represent large investments in physical resources and can be regarded as part of the region's physical infrastructure."*

The applicant's site, therefore, qualifies as part of the region's physical infrastructure. Ensuring its future use is fully supported by Objective 32 so it can continue to support the economic, social and cultural wellbeing of the region's people and communities.

Section 3.14 Recognition of Matters of Significance to Iwi/Hapu

This section of the RPS seeks to ensure tikanga Māori values and traditions are recognised,²⁶ Māori are meaningfully consulted,²⁷ waahi tapu, tauranga waka²⁸ and traditional food gathering practices, places and resources are protected.²⁹

The manner in which the applicant has developed their proposal, and the proposal itself, respectively reflect the processes and the outcomes these objectives strive for. In this regard, it is noted that the applicant embarked on an early, inclusive and transparent consultation process with mana whenua that allowed meaningful input and influence of the final discharge strategy adopted by the applicant. This process in itself was respectful to tikanga Māori and resulted in an outcome that minimised adverse impacts on the mauri of

²⁶ Objective 34.

²⁷ Objective 35.

²⁸ Objective 36.

²⁹ Objective 37.

local natural resources. In addition, traditional food gathering practices, places and resources will be protected and enhanced through the applicant's HARP initiative.

6.9.2 Regional Plan

The objectives and policies of the Regional Plan section of the RRMP relevant to the Napier Works are set out below.

Section 5.2 Land

Policy 67 of the RRMP sets out various environmental guidelines to encourage appropriate management of effects on soils from discharges of contaminants to land. Relevant guidelines in this case include:

4. *There should be no long-term degradation of the physical properties (including soil structure) or biological properties (including organic matter content) of soil.*
5. *The discharge of contaminants into the soil, including hazardous substances, pathogens and diseases, should be at a level that will not cause acute or chronic toxic effects on humans or other non-target species, or have the potential to reduce long-term land use potential.*
6. *In order to meet the surface water quality guidelines set out in section 5.4 where land is subject to earthworks, best practice should be adopted to mitigate or avoid the effects of runoff into water bodies (as necessary according to the erodibility of the soil).*

Assessment

Technical reports supporting the application confirm that the proposal to irrigate treated stormwater and process water to land is not likely to result in long-term soil degradation provided appropriate crop and land management practices are adopted nor will it cause any concerning risks to human health.

All earthworks undertaken during the construction of new treatment facilities on the site will be undertaken in accordance with appropriate sediment, erosion and land contamination control plans.

Section 5.3 Air Quality

5.3 Air Quality

Objective

OBJ 39 A standard of ambient air quality is maintained at, or enhanced to, a level that is not detrimental to human health, amenity values or the life supporting capacity of air, and meets National Environmental Standards.

OBJ 39a A standard of local air quality is maintained that is not detrimental to human health, amenity values or the life supporting capacity of air.



OBJ 39b In the Napier, Hastings, Awatoto and Whirinaki Airsheds, improve ambient air quality so that by 1 September 2020 the concentration of PM10 does not exceed 50 g/m³ (24 hour average), more than once in any 12 month period.

Policy

Policy 69 Environmental Guidelines & Standards - Air Quality

To manage the effects of activities affecting air quality in accordance with the environmental guidelines and standards set out in Table 6 below.

Table 6: Environmental Guidelines & Standards - Air Quality

Issue	Guideline
1. Odour	<i>There should be no offensive or objectionable odour beyond the boundary of the subject property.</i>
2. Gases, airborne liquid & other noxious or dangerous contaminants	<i>There should be no noxious or dangerous levels of gases or airborne liquid or other airborne contaminants beyond the boundary of the subject property, in concentrations and at locations that are likely to cause adverse effects on human health, ecosystems or property.</i>
3. Smoke & water vapour	<i>The discharge should not result in any smoke, water vapour or other contaminant that adversely affects traffic safety, or reduces horizontal visibility within 5m of ground level beyond the boundary of the subject property.</i>
4. Dust	<i>Any dust deposition should not raise the ambient dust deposition rate by more than 4 g/m² per 30 days at any point beyond the boundary of the subject property.</i>
5. Particulate matter	<i>There should be no objectionable deposition of particulate matter on any land or structure beyond the boundary of the subject property.</i>
6. Ambient air quality	<ul style="list-style-type: none"> a. <i>The ambient air quality must remain within the standards stated within the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.</i> b. <i>Where no national environmental standards exist the ambient air quality should remain within the New Zealand Ambient Air Quality Guidelines MfE 2002.</i> c. <i>Where the existing ambient air quality is better than the concentrations specified in the standards and guidelines in (a) and (b), there should be no significant degradation of ambient air quality.</i>
7. Decision making - offsets	<p><i>The matters to be taken into account when assessing offsets in accordance with Policy 69a - 5.3.1A(iii), shall include, but not be limited to:</i></p> <ul style="list-style-type: none"> a. <i>The amount of offset required shall be estimated in kilograms of PM₁₀ per day based on the likely worst case daily PM₁₀ emissions from the new activity during the months May to August. If there is no discharge from the new</i>



Issue	Guideline
	<p>activity during the months May to August then no offset is required.</p> <p>b. The measurement of the “offset” discharge must take place at the same time of day as the new discharge or occur at a time of the day when meteorological conditions are more conducive to elevated PM₁₀. The onus is on the applicant to demonstrate this.</p> <p>c. The “offset” discharge must be similar to the new discharge in terms of particle mode (fine or coarse) and composition except that it may differ if the applicant demonstrates that the “offset” discharge is more harmful.</p> <p>d. The “offset” discharge must not already be accounted for in air quality improvement programmes. In the Hastings and Napier Airsheds the following activities cannot be used for offsets:</p> <ul style="list-style-type: none"> - Removal of open fires - Removal of solid fuel burners not complying with the requirements of schedule XII - Outdoor burning <p>e. The “offset” must be legally binding and must be effective from the first day of discharge from the new activity and for the duration of the consent for the new activity.</p> <p>f. The “offset” can be from a discharge within the same site. For example, an applicant may choose to install control technology such as a bagfilter on an existing discharge to “make room” for a new discharge.</p> <p>g. If the new discharge point is at a lower height than the “offset” discharge the applicant must demonstrate that the “offset” results in an equal or greater reduction in the maximum ground level concentrations of PM₁₀ (24-hour average).</p> <p>h. The applicant must demonstrate that the location of the “offset” discharge/s will have an equal or no greater impact on concentrations of PM₁₀ under meteorological conditions most conducive to elevated concentrations.</p> <p>i. The National Environmental Standards for Air Quality must be considered in relation to all “offsets” as in some situations the National Environmental Standards for Air Quality may restrict their use.</p> <p><i>Note: For clarification, the “offset” discharge is the one that is being removed and the “new” discharge is the one that is new. The offset discharge must be therefore equal or “worse than the new discharge so there is an environmental improvement</i></p>

Assessment:

The proposal to renew the site’s air discharge consent sits comfortably with these policy provisions. This is on the basis of the following conclusions made in the technical reports:



- The future ambient air quality will meet relevant national environmental standards:³⁰
- For other ambient air quality parameters, modelling shows relevant air quality guidelines for the protection of human health will be maintained:³¹
- The improved discharge quality achieved with the new manufacturing plant stack and proposed reduction in fluoride emissions will result in a reduction in fluoride ground level concentrations compared with the previous plant configuration;
- The adverse effects associated with the discharge of SO₂ from the site is low, and with the proposed convertor replacement, will reduce these effects further to the extent they will be less than minor; and
- The effects of PM₁₀ and PM_{2.5} emissions and the effects associated with odour and dust are considered to be less than minor.

Section 5.6 Groundwater Quality

Groundwater at the site forms part of the confined, productive aquifers in the Heretaunga Plains Aquifer System. The environmental guideline for managing the quality of this groundwater is that there should be no degradation of existing water quality.³²

Assessment:

It should be noted that the proposed TANK plan change (discussed further below) seeks to amend water related objectives and policies currently contained in Chapter 5 of the RRMP. To the extent the proposed TANK is well advanced through the plan change process, any weight given to these existing RRMP provisions should be relatively limited.

Notwithstanding, and as highlighted already, although the proposal introduces a new potential groundwater contamination pathway through the adoption of land-based treatment of site stormwater and wastewater, the risk that this new activity will contaminate confined aquifers beneath the site is extremely low and not expected to degrade the groundwater within them.

Section 5.7 Groundwater Quantity

To maintain a sustainable groundwater resource,³³ this section of the RRMP sets out the following guidelines;³⁴

³⁰ Objective 39.

³¹ Objective 39a.

³² Policy 75.

³³ Objective 44.

³⁴ Policy 77.



- The safe yield or groundwater allocation limit identified for an aquifer should not be exceeded.
- Takes should not contribute to the intrusion of salt water into freshwater aquifers.
- Takes should not cause a reduction in the flow of rivers, levels of springs or lakes or ecologically significant wetlands.

Assessment

It is noted that the technical assessment prepared by Bay Geological Services Ltd confirms that the applicant's proposed use of groundwater at the site is in line with current RRMP environmental guidelines regarding allocation, saltwater intrusion and surface water depletion and related effects. While this assessment may not strictly be relevant given the groundwater take occurs in the Coastal Environment and is regulated by the RCEP, it is included for completeness.

Section 5.8 Beds of Rivers and Lakes

The applicant's proposal to restore a section of wetland between the site and the Tūtaekurī River (the proposed HARP wetland) will enhance the available habitat for aquatic flora and fauna within this river and estuary system. In turn, this promotes the RRMP's objective and policies relating to the management of river beds.³⁵

6.9.3 Overall Assessment

Overall, the proposal is consistent with relevant objectives and policies within the RRMP.

6.10 PROPOSED PLAN CHANGE 9 - TANK

To enable the progressive implementation of the previous 2014 NPSFM (amended 2017), the Proposed TANK Plan Change contained a number of new provisions relating to the management of water quality, allocation and use within the Tūtaekurī, Ahuriri, Ngaruroro and Karamū (TANK) catchments.

Since this time, the new NESFW and NPSFM (2020) have come into force, submissions on the proposed plan change have been received and considered, and more recently, the s42A report (including an addendum) has been released, recommending an array of changes to the version notified, and hearings have been held. Decisions are currently being deliberated.

The Napier Works is within the area covered by the TANK catchments. In addition, the groundwater resource at the site forms part of the Heretaunga Plains Groundwater Management Unit denoted in TANK Schedule 31E (Figure 9), and the site's future

³⁵ Objective 45, Policy 79.



proposed discharges to land are located within the Napier Water Source Protection Zone denoted in TANK Map 2 (Figure 10).

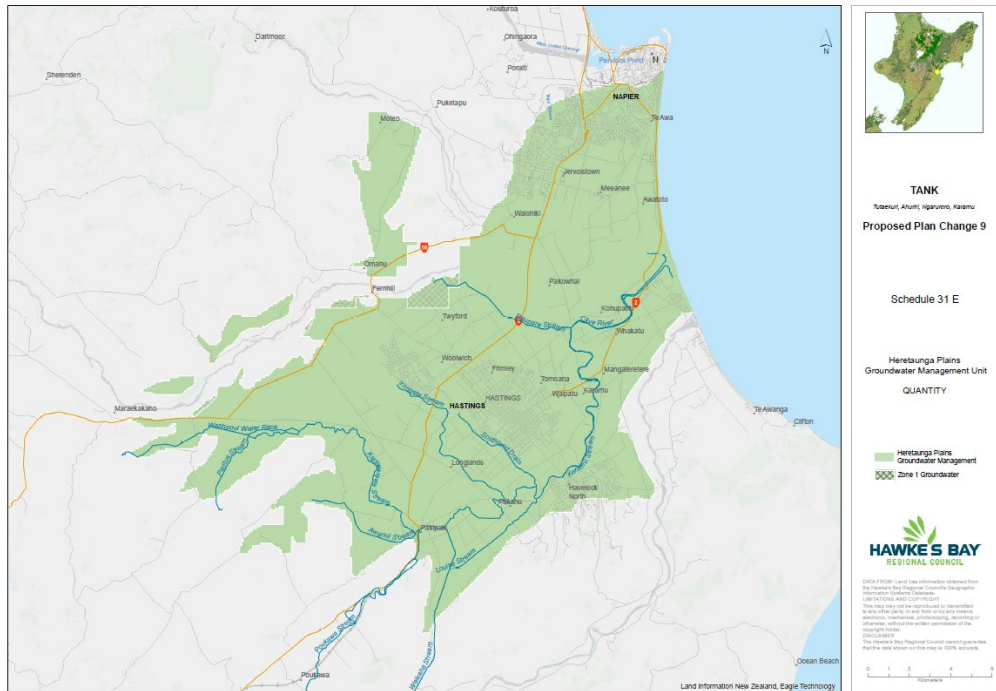


Figure 13: Heretaunga Plains Groundwater Management Unit (TANK Schedule 31E)

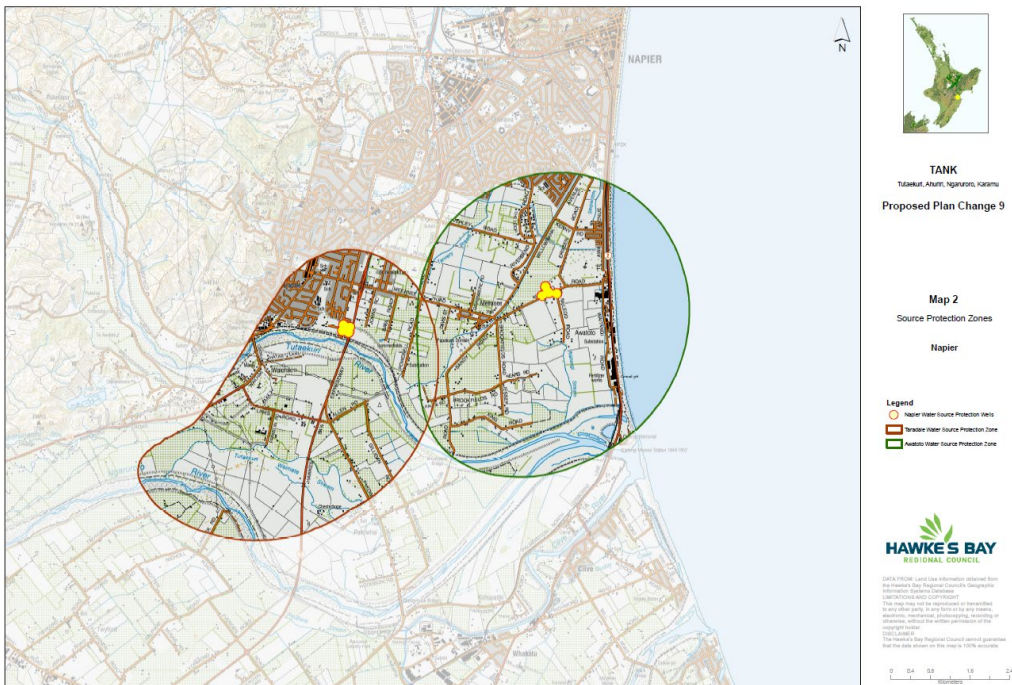


Figure 14: TANK Plan Change – Source Protection Zones (Napier)



Aspects of the applicant's proposal considered relevant to TANK include:

- the proposed discharges to land and associated potential effects on groundwater and surface water quality, and in particular, any associated risks to the Napier Source Protection Zones;
- the proposed dewatering take of shallow groundwater; and
- despite the proposed discharge to water being outside the jurisdiction of the RRMP and of TANK (i.e. being within the Coastal Environment it falls under the RCEP), this aspect is nevertheless considered in the context of relevant TANK provisions relating to the Waitangi Estuary (TANK Schedule 26.5 Planning Map) and related TANK targets and values for NPSFW attributes for the Tūtaekurī River and the Waitangi Estuary contained in TANK Schedule 26.

It is noted that since the locations of the existing groundwater bores are in the Coastal Environment, from a planning assessment perspective, the objectives and policies within the RCEP are most relevant to the proposed groundwater take activities (refer above). Notwithstanding, TANK provisions relevant to groundwater abstraction are also canvassed below for completeness.

6.10.1 Objectives and Policies

There are 18 new objectives for the TANK catchments, recognising the importance of the health of aquatic ecosystems and the social and cultural demands for clean water. The objectives also address climate change, water allocation priority, conservation and augmentation of water, protection of drinking water quality and community involvement.

Schedules within the TANK Plan Change specify water quality states for a range of attributes that will ensure desired waterbody values can be met. This includes making sure the water is suitable for swimming, or that water quality supports healthy fisheries or that water is able to be used to supply community drinking water safely.

The schedules also differentiate objectives for the upper and lower reaches of the Tūtaekurī River. They also acknowledge the impact of freshwater inputs on the Waitangi Estuary, noting that this estuary is in poor ecological health and suffers from algal blooms and increasing muddiness from sediment entering the estuary.

Relevant TANK Plan Change objectives and policies are set out below.³⁶

³⁶ Noting quite substantial changes have been recommended recently by staff (in response to submissions and NESFW 2020) as compared to the TANK plan change originally notified, the objectives and policies set out in the Officers' recommended changes (May 2021) are presented for discussion.



6.10.2 Water Quality

In terms of water quality, TANK plan change objective 4 is most relevant.

Objectives:

Objective 4 states:

The quality of the TANK freshwater bodies is maintained where objectives are currently being met, or is improved in degraded waterbodies so that they meet attribute states in Schedule 26 by 2040 provided that:

- a) for any specific water body where the attribute state is found to be higher than the target attribute state given in Schedule 26, the higher state is to be maintained;*
- b) progress is made over the life of this Plan towards the long term target attribute states by the mixture of regulatory and non-regulatory provisions in this Plan.*

Schedule 26

Schedule 26 is a detailed and expansive collection of freshwater objective information and data including; baseline, targets and values for all NPSFW attributes including groundwater attributes, within each TANK catchment, and for the Ahuriri and Waitangi estuaries.

Policies

In terms of water quality and the proposed process water component of the site's discharges to surface water, TANK policy 10 is most relevant.

POL TANK 10: The Council will manage point source discharges (that are not stormwater discharges) so that after reasonable mixing, contaminants discharged either by themselves or in combination with other discharges do not cause the 2040 target attribute states for water quality in Schedule 26 to be exceeded and when considering applications to discharge contaminants will take into account:

- a) measurement uncertainties associated with variables such as location, flows, seasonal variation and climatic events;*
- b) the degree to which a discharge is of a temporary nature, or is associated with necessary maintenance work.*
- c) when it is an existing activity, identification of mitigation measures, where necessary, and timeframes for their adoption that contribute to the meeting of target attribute states*
- d) The extent to which the discharge activity complies with good management standards*



- e) *The necessity for requiring best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant.*

In terms of effects associated with the proposed stormwater component of the site's discharges to surface water, TANK policies 28 and 29 are most relevant.

Policy 28 strives to reduce or mitigate adverse effects of existing industrial and/or trade premises stormwater discharges on aquatic ecosystems and community well-being by 1 January 2025. Included in the activities to achieve this policy is a key directive to require, by no later than 1 January 2025, the preparation and implementation of a site management plan and good site management practices on industrial and/or trade premises with a high risk of stormwater contamination in the TANK catchments.

Policy 29 (Source Control) also seeks to reduce sources of stormwater contamination through the implementation of good site management practices.

6.10.3 Drinking Water Source Protection

Source Protection Zone (SPZ) means an area surrounding the point of take for a registered drinking water supply that provides no fewer than 501 people with drinking water for not less than 60 days in each calendar year where plan provisions apply and includes any provisional Source Protection Zone and is defined by methods specified in TANK Schedule 35 (information about the location of SPZs can be found on the Council's webpage).

Objectives

In terms of land disposal of treated site discharges, associated groundwater quality effects and drinking water protection, Objective 9 of the TANK Plan Change is most relevant. This states the following:

Activities in source protection areas for Registered Drinking Water Supplies are managed to ensure that they do not cause source water in these zones to become unsuitable for human consumption, and that risks to the supply of safe drinking water are appropriately managed.

Policies POL TANK 6, 8 and 28 are also particularly relevant.

POL TANK 6 states;

The quality of groundwater of the Heretaunga Plains and surface waters used as source water for Registered Drinking Water Supplies will be protected, in addition to Policy POL TANK 1, by the Council:

- a) *identifying a source protection extent for small scale drinking water supplies or Source Protection Zones for large scale drinking water supplies by methods defined in Schedule 35; and*



- b) *regulating activities within Source Protection Zones that may actually or potentially affect the quality of the source water or present a risk to the supply of safe drinking water because of;*
 - (i) *direct or indirect discharge of a contaminant to the source water including by overland flow and/ or percolation to groundwater;*
 - (ii) *an increased risk to the safety of the water supply as a result of a non-routine event;*
 - (iii) *potentially impacting on the level or type of treatment required to maintain the safety of the water supply;*
 - (iv) *shortening or quickening the connection between contaminants and the source water, including damage to a confining layer of the aquifer;*
 - (v) *in the case of groundwater abstraction, the rate or volume of abstractions causing a change in groundwater flow direction or speed and/ or a change in hydrostatic pressure that is more than minor.*

POL TANK 8 states;

The Council will, when considering applications to discharge contaminants or carry out land or water use activities within:

- a) *the source protection extent for Registered Drinking Water Supplies, take into account possible contamination pathways and risks to the quality of the source water for the water supply,*
- b) *A Source Protection Zone, avoid or mitigate risk of contamination from the activity of the source water for the water supply by taking into account criteria including but not limited to;*
 - (i) *the amount, concentration and type of contaminants likely to be present as a result of the activity or in any discharge;*
 - (ii) *the potential pathways for those contaminants, including any likely or potential preferred pathways;*
 - (iii) *the mobility and survival rates of any pathogens likely to be in the discharge or arising as a result of the activity;*
 - (iv) *any risks the proposed land use or discharge activity has either on its own or in combination with other existing activities, including as a result of non-routine events;*
 - (v) *any risks ~~ensuring the water supplier~~ is aware of any abstraction of groundwater where abstraction has the potential to have more than a minor impact on flow direction or speed and/ or hydrostatic pressure;*
 - (vi) *the effectiveness of any mitigation measures to avoid or mitigate risk of contaminants entering the source water and the extent to which the effectiveness of the mitigation measure can be verified, including with regard to relevant codes of practice or guidelines;*



- (vii) *notification, monitoring or reporting requirements to the Registered Drinking Water Supplier*
- (viii) *Outcomes of consultation with the Registered Drinking Water Supplier with respect to the risks to source water from the activity, including measures to minimise risks and protocols for notification to the Registered Drinking Water Supplier should an event presenting a risk to groundwater occur.*

Policy POL TANK 28 also states that:

The adverse effects of stormwater quality and quantity on aquatic ecosystems and community well-being arising from existing and new urban development (including infill development) industrial ~~or~~ and trade premises and associated infrastructure, will be reduced or mitigated no later than 1 January 2025, by:

- f) *taking into account site specific constraints including areas with high groundwater and, source protection zones;, ~~and/or an outstanding water body~~*
...
- m) *requiring, no later than 1 January 2025, the preparation and implementation of a site management plan and good site management practices on industrial ~~and~~ or trade premises with a high risk of stormwater contamination in the TANK catchments and those in the high priority areas:*
 - (i) *of the Ahuriri catchment;*
 - (ii) *of the Karamū River and its tributaries;*
 - (iii) *of land over the unconfined aquifer; and*
 - (iv) *within identified drinking water Source Protection Zones.*

Assessment:

The proposed discharges to surface water are consistent with relevant TANK water quality and point source and stormwater discharge objectives and policies for the following key reasons:

- It is an existing discharge, the effects of which are proposed to be mitigated in future by reducing total discharge volumes, contaminant loads, contaminant concentrations and times of discharge – all considered to represent the best practicable option, good practice, and overall will help contribute to the meeting of target attribute states;
- A source protection management plan will be implemented on site;
- Despite some future water quality guideline exceedances, there is no evidence to indicate that the existing discharge is resulting in a reduction in the quality of the receiving water (beyond the mixing zone) to a level where it is having any adverse impact on human contact recreation or having more than a minor effect on ecological values;



In terms of relevant groundwater quality and relevant drinking water source protection objectives and policies, these are achieved by the following;

- Given current levels of potable water treatment, local community drinking water supplies will not become unsafe for human consumption due to a combination of the following factors:
 - the presence of thick impermeable layers of sediments that overly, confine and protect the water used for drinking;
 - the proposed management and control of contaminant sources on site;
 - the proposed treatment systems for site stormwater and process water;
 - the ability for local soils and crops to absorb residual contaminants; and
 - the proposed management and monitoring systems to be implemented for this activity.
- The applicant's willingness to ensure appropriate local drinking water supplier notification protocols are followed in the unlikely event of a spill, or other event, that may adversely affect local groundwater within the Napier Water Source Protection Zone; and
- The applicant's proposal to implement a comprehensive source protection management plan at the site.

6.10.4 Wetlands and Wetland Management

OBJ TANK 15 seeks to manage wetlands to enable, among other things, an increase in the total wetland area within TANK by protecting and restoring 200ha hectares of existing wetland and reinstating or creating 100ha of additional wetland by 2040.

Policies 14 and 15 also confirm that Council will regulate activities in and adjacent to wetlands and lakes and will support and encourage the restoration and extension of natural wetlands and the reinstatement or creation of additional wetlands to provide for or improve wetland values.

The HARP assists with the achievement of OBJ TANK 15 and aligns very closely with Policies 14 and 15.

6.10.5 Ground Water Quantity

OBJ TANK 17 seeks to allocate groundwater so that it results in:

- a) The development of Māori economic, cultural and social well-being supported through regulating the use and allocation of the water available at high flows for taking, storage and use;



- b) Water being available for abstraction at agreed reliability of supply standards;
- c) Efficient water use;
- d) Allocation regimes that are flexible and responsive, allowing water users to make efficient use of this finite resource.

OBJ TANK 18 is to ensure the current and foreseeable water needs of future generations and for mauri and ecosystem health are secured through:

- a) water conservation, water use efficiency, and innovations in technology and management;
- b) flexible water allocation and management regimes;
- c) water reticulation;
- d) aquifer recharge and flow enhancement; and
- e) Water harvesting and storage.

The proposed dewatering proposal is not counterproductive to achieving these objectives. In respect of the proposed groundwater abstraction activities, it is noted that the applicant will use water efficiently and conserve it where possible. The proposal to use a portion of the water abstracted as an environmental enhancement flow to sustain a new wetland area directly achieves OBJ TANK 18 d).

In respect of relevant TANK policies, those that address Heretaunga Plains Groundwater Levels and Allocation Limits are most relevant. In these respects, the proposed dewatering proposal again is not inconsistent with any relevant policy, and the proposed groundwater abstraction for site operations and wetland environmental flows is consistent with:

- Policy 37 (c) which directs the Council to manage the Heretaunga Plains Groundwater Quantity Area Water Management Unit as an over-allocated management unit and prevent any new allocations of groundwater. In this respect, the proposed groundwater abstraction will represent a reduction in allocated groundwater as compared to the current situation;
- Policy 38 because the applicant is a holder of an existing permit granted before 2 May 2020;
- Policy 39 since there is not expected to be any stream depletion effects of concern; and
- Policy 46 because the groundwater sought has been tightly matched to meet Actual and Reasonable use to support the site's manufacturing activities and the needs of the new/restored HARP wetland.

Conversely, the proposal is not considered particularly consistent with:



- Policy 36 which directs Council to recognise the actual and potential adverse effects of groundwater abstraction in the Heretaunga Plains Groundwater Quantity Area and to adopt a staged approach to groundwater management that includes avoiding further adverse effects by not granting new consents to take and use groundwater. In this respect, although the proposal is to replace an existing consent with a new consent, the new consent will represent a lower total allocation as compared to the current situation and will not result in any concerning environmental effects.

On the whole, it is considered the proposal is consistent with relevant TANK groundwater quantity policies (noting they do not technically apply to the groundwater abstraction activities located in the Coastal Environment).

6.11 CITY OF NAPIER DISTRICT PLAN

It is noted that the NCC is currently reviewing the District Plan. Consultation on a Draft District Plan closed in September of this year but notification of a new Proposed District Plan has not yet occurred and is not anticipated until the second half of 2022. The existing operative district plan will continue to have legal effect for some time into the future as the submission and hearing process progresses for a proposed plan.

6.11.1 District Plan Objectives and Policies

The most relevant objectives and policies in the operative District Plan are listed in Table 9.

Table 9: Napier District Plan - Relevant Objectives and Policies

Reference	Objective / Policy	Comment
Chapter 22 Industrial Environments Objectives and Policies		
Objective 22.3	<i>To avoid, remedy or mitigate the adverse effects on the environment of land uses within industrial areas of the City.</i>	This objective and policy 22.3.1 give effect to the purpose of the RMA in avoiding, remedying or mitigating adverse effects on the environment. The effects on the environment associated with the proposal are typical of those expected in the Main Industrial Zone at Awatoto.
Policy 22.3.1	<i>Ensure that land uses are managed to avoid, remedy or mitigate any adverse effects on the environment and people's health, safety and wellbeing.</i>	
Chapter 33 Rural Environments		



Reference	Objective / Policy	Comment
Objective 33.2	<i>To protect the City's outstanding natural features, significant landscapes, and its rural land from the adverse effects of inappropriate subdivision, use and development of land.</i>	The applicant proposes to utilise rural land to irrigate treated stormwater and process water from the site onto crops. The use of this land for this purpose is not inconsistent with these rural environment objectives and is well aligned with policy 33.2.1.
Objective 33.6	<i>To ensure that the cumulative adverse effects of subdivision, use and development of land on rural resources are recognised, and avoided, remedied or mitigated.</i>	
Policy 33.2.1	<i>Ensure that on rural land; potential is maintained for a range of current and future productive land uses to occur.</i>	

Chapter 41 Open Space Environments

Objective 41.4	<i>To preserve, provide for, maintain and enhance, the character, amenity, cultural, heritage and natural values and ecosystems, associated with open space environments.</i>	The proposed wetland restoration activities will result in an enhancement of the local ecosystem within the River Conservation Zone. Accordingly, this aspect of the proposal achieves this objective and is consistent with this policy.
Policy 41.4.5	<i>Ensure that the quality of the Open Space Environment is maintained and enhanced.</i>	

Chapter 52A Earthworks

Objective 52A.3	<i>To enable earthworks within Napier City while ensuring that the life-supporting capacity of soils and ecosystems are safeguarded and adverse effects on outstanding natural features and significant landscapes, historic heritage values and human health and safety are avoided, remedied or mitigated.</i>	This objective and associated policies are generally enabling of earthworks provided that adverse effects are able to be avoided remedied or mitigated. Adoption of Best Practices sediment control and dust mitigation practices along with the preparation and implementation of the recommended Contaminated Soils Management Plan, will ensure consistency with this objective and policies are achieved.
Policy 52A.3.4	<i>Control earthworks to ensure that they will not adversely affect the natural and physical environment, and the amenity of the community, adjoining</i>	



Reference	Objective / Policy	Comment
	<i>land uses, historic heritage values and culturally sensitive sites.</i>	
Policy 52A.3.5	<i>Allow earthworks where the adverse effects on the environment will be minor.</i>	
Chapter 64 Contaminated Land		
Objective 64.2	<i>To ensure that there are no significant risks to human health posed by residual soil contaminate levels in land that has a history of land use which may have resulted in contamination.</i>	The DSI report supporting the application provides more details on potential human health risks and how these will be managed. As already confirmed, proposed earthworks involving contaminated soils will be appropriately managed through the implementation of a bespoke Contaminated Soils Management Plan.
Policy 64.2.2	<i>Any change of land use, development or redevelopment on contaminated land ensures that any proposed management controls including remediation pathway or receptor controls will ensure the risks to human health are acceptable for the intended land use.</i>	

Overall, the proposal is consistent with relevant provisions contained within the District Plan.

6.12 SECTION 104D

As set out in section 5.7.1 using the ‘bundled’ approach to the water and land use related activities requiring resource consent from the Regional Council, the project falls to be considered a non-complying activity through the consideration of the activity status under the NESFW of the earthworks related to the HARP and discharge of treated water into the Waitangi Estuary

Section 104D of the RMA sets out an additional threshold test for non-complying activities as follows:

(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or



(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

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

In short therefore, where a non-complying activity is under consideration, a decision-maker needs to be satisfied that the adverse effects of the activity are no more than minor, or that the activity is not contrary to the relevant plan objectives and policies when read as a whole.

The effects of the discharge of treated water on the estuarine environment has been assessed by Streamlined Environmental who have determined that there is no evidence to indicate that the existing discharge from the Napier Works is having “*more than a minor effect on ecological values beyond the mixing zone*” and that the “*improvement in water quality is likely to have a positive effect on the existing low ecological values*”. This can therefore be interpreted as meeting the above test of any adverse effects of the proposed discharge being no more than minor.

Similarly, the proposed wetland restoration in the form of the HARP will provide additional wetland habitat through the restoration and enhancement of the Waitangi Estuary which can be considered to be consistent with both the NESFW and the relevant objectives and policies of the regional planning documents (in particular TANK), as set out in section 6 above.

However, it is arguable that the strong cultural preference to have discharges to land rather than to water could be interpreted as meaning that the effects of *any* direct discharge to water are by definition more than minor. While that is a conservative position, we have assessed below whether the proposal is contrary to the relevant objectives and policies in the event it is concluded that the adverse effects are more than minor.

The relevant plan objectives and policies for the non-complying activities under the NESFW is the RCEP. As set out above, the proposal is considered consistent with all of the relevant objectives and policies of that plan. As the RCEP predates the NZCPS an assessment has also been completed of the proposal against the relevant objectives and policies of that document and again it is assessed as being consistent with those objectives and policies. Overall, the proposed activity conforms to the guidance and expectations of the relevant objectives and policies as set out in the analysis presented earlier in this report, and is certainly not inconsistent with them.



It is therefore considered that the gateway test requirement of section 104D of the RMA is met regardless of whether or not the adverse effects are assessed as more than minor, and that consent can be granted for this non-complying activity.

6.13 OTHER MATTERS

6.13.1 Relevant Statutory Acknowledgements – Treaty Claims Settlement Acts

Heretaunga Tamatea Claims Settlement Act 2019

The RRMP and the RCEP both append Schedules identifying statutory acknowledgements (Schedule 1A and Schedule B respectively). These statutory acknowledgements arise from Treaty of Waitangi settlements and are a formal recognition made by the Crown of a claimant group’s particular cultural, spiritual, historical and traditional association with a specific area (statutory area) owned by the Crown.

The Tūtaekuri River and tributaries is recognised as a statutory acknowledgement area as set out by the relevant sections of the Heretaunga Tamatea Claims Settlement Act 2019 (Figure 12). This statutory acknowledgement area falls within the Heretaunga Tamatea Settlement Trust Area of Interest. In this case the Napier Works, and in particular, the water discharge are subject to the statutory acknowledgement.

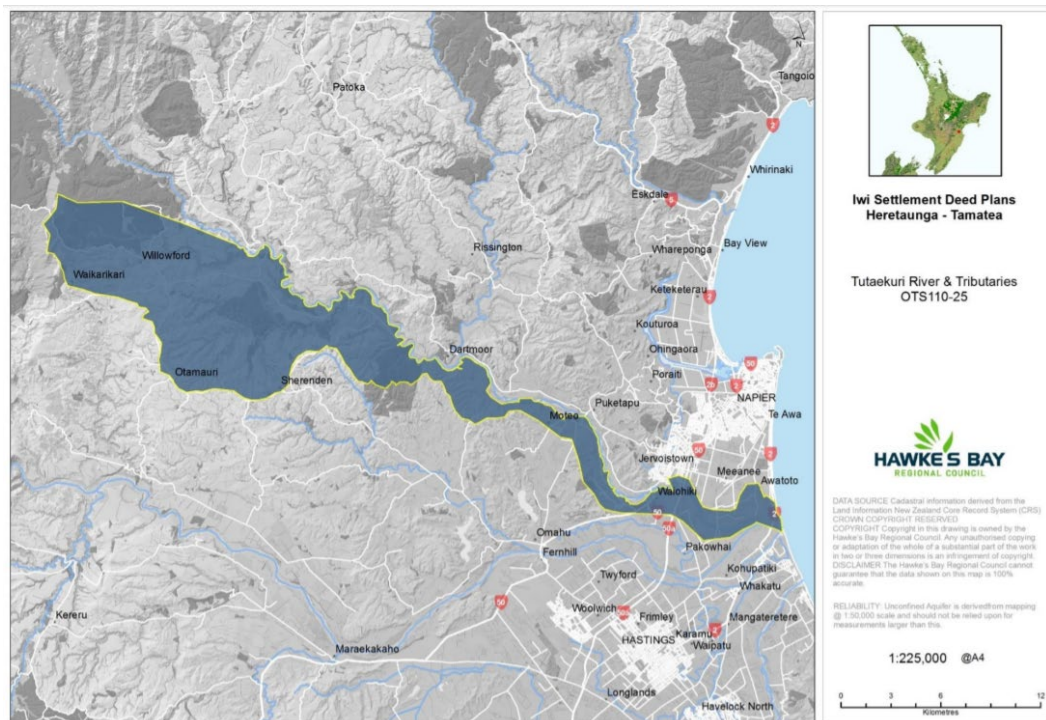


Figure 15: Heretaunga - Tamatea statutory acknowledgement area



The Heretaunga Tamatea Claims Settlement Trust were invited to participate in the TFG process and representatives from Kohupātiki Marae have engaged directly through the TFG process as outlined in section 19 of the AEE.

6.13.2 Marine and Coastal Area (Takutai Moana) Act 2011

The enactment of the Marine and Coastal Area (Takutai Moana) Act 2011 established a new regime for the recognition of customary rights and title over the common marine and coastal area. Section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011 defines the ‘marine and coastal area’ as:

- (a) Means the area that is bounded –
 - i. On the landward side by the line of mean high water springs; and*
 - ii. On the seaward side, by the outer limit of the territorial sea; and**
- (b) Includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act, 1991); and*
- (c) Includes the airspace above, and the water space (but not the water) above, the areas described in paragraphs (a) and (b); and*
- (d) Includes the subsoil, bedrock, and other matter under the areas described in paragraphs (a) and (b).*

The RMA definition for Coastal Marine Area is set out in the relevant definitions section of this report.

If an activity requiring a resource consent is within the area of a customary marine title application, the applicant is required to notify and consult with that applicant group.

The area of the proposed future discharge does not fall within either the ‘marine and coastal area’ as defined by the Marine and Coastal Area (Takutai Moana) Act 2011 or the ‘coastal marine area’ as defined by the RMA and as such does not fit in the definition of the Coastal Area Act 2011 ‘Common Marine and Coastal Area’. Notwithstanding, the applicant acknowledges site discharges to water will eventually enter these areas downstream and has adopted a very inclusive and transparent approach with tangata whenua through direct engagement, the TFG process and the HARP.

6.13.3 Iwi and Hapū Management Plans

There are four relevant iwi and hapu management plans that apply to the area of the Napier Works. These are:

- Kahungunu ki Uta, Kahungunu ki Tai, Marine and Freshwater Fisheries Strategic Plan Mai Paritu tai atu ki Turakirae
- Ngāti Hori Freshwater Resources Management Plan, “Operation Patiki” 2009/2012



- Tūtaekurī Awa Management and Enhancement Plan, Ngā Hapū o Tūtaekurī, October 2014
- Mana Ake, Nga Hapū o Heretaunga, An Expression of Kaitiakitanga, Te Taiwhenua o Heretaunga, March 2015

The iwi management plans cover a range of issues important to each of the groups. These are summarised below.

Kahungunu ki Uta, Kahungunu ki Tai, Marine and Freshwater Fisheries Strategic Plan, Mai Paritu tai atu ki Turakirae

The Kahungunu ki Uta, Kahungunu ki Tai, Marine and Freshwater Fisheries Strategic Plan, focuses wider matters relevant to Ngati Kahungunu as an iwi. As noted above the Napier Works lies within the Ngati Kahungunu boundary.

While the overall focus of the plan is on fisheries management it also provides ‘*significant consideration to freshwater fisheries, the interests of kaitiaki, habitat restoration and enhancement improvement of ecosystems and fisheries management. This includes emphasis on the adverse impacts of resource management on inland waterways and marine fisheries*’.³⁷ A number of these issues are specifically focussed on in other iwi and hapu management plans as summarised below.

Ngāti Hori Freshwater Resources Management Plan, “Operation Patiki” 2009/2012

The Ngāti Hori Freshwater Resources Management Plan covers Karamu Stream / Clive River from the Waitangi Estuary to the confluence with the Raupare Stream (Figure 16).



Figure 16: Ngāti Hori Freshwater Resources Management Plan geographic area.

³⁷ Tangata Whenua Values to Attributes and Management Priorities for the Ngaruroro River, October 2016.



This plan as summarised in the Ngaruroro Values and Attributes Report³⁸ as part of the HBRC's TANK process. Relevant and useful sections of this summary have been replicated here.

“Ngāti Hori is a hapū of Ngāti Kahungunu. Ngāti Hori are kaitiaki of the Clive River (which occupies the former course of the Ngaruroro River), and the lower reach of the Ngaruroro River approximately downstream of Chesterhope Bridge.

The importance of the Ngaruroro River to Ngāti Hori is reflected in the location of Kohupatiki marae on the true left bank of the former path of the Ngaruroro River. Ngāti Hori recently celebrated the 100-year anniversary of the Kohupatiki whareniui.

In a bid to restore the mauri and mana of the Clive River, Ngāti Hori developed their ‘Freshwater Resources Management Plan 2009-2012’. This document sets out hapū aspirations for freshwater management in their rohe, and has the following priorities for the Clive River (Karamu):

- *Achieving sufficient water flow;*
- *Improving water quality;*
- *Protection and restoration of traditional riparian vegetation; and*
- *Protection and restoration of fish and fish habitat.*

As a recognised hapu planning document Hawke’s Bay Regional Council are required to “take it into account” as part of any statutory processes relating to the river and its management. The document directs Ngāti Hori’s monitoring and research efforts, and on-the-ground restoration actions undertaken as part of Operation Pātiki.

Through the management plan and Operation Pātiki, Ngāti Hori seeks firstly to halt, and then to reverse the significant environmental damage and adverse effects on their cultural preferences for the Karamu/Clive and lower Ngaruroro awa, and on the Ngāti Hori people. Major issues include: loss of safe swimming opportunities; loss of pātiki (black flounder), healthy tuna (longfin eel) stocks and other mahinga kai species; cultural disconnection from the awa; loss of aquatic and riparian habitat; poor water quality, changed flow regime, a change in bed substrate from gravel to mud, and the proliferation of algae and aquatic weed.”

The plan details actions to address each of the four priorities, a number of which have been progressed, however others could be part of the discussions with the hapū as to options for mitigation or funding / partnerships with Ravensdown.

³⁸ Tangata Whenua Values to Attributes and Management Priorities for the Ngaruroro River, October 2016.



Tūtaekurī Awa Management and Enhancement Plan, Ngā Hapū o Tūtaekurī, October 2014

The Tūtaekurī Awa Management and Enhancement Plan considers the interests of four Hapū - Ngāti Paarau, Ngāti Hinepare, Ngāti Māhu and Ngai Tāwhao, each with connections to the Tūtaekurī River and therefore the Waitangi Estuary.

As above, this plan is also summarised in the Ngaruroro Values and Attributes Report as follows:

“The Hapu management plan provides some critique on inadequacies within the RRMP in providing mechanisms to protect Nga Hapū O Tūtaekurī values. The plan also mentions some of the contentious issues – gravel management, poor land management around riparian margins, water quality and nutrient losses.

The main aspirations centre around the enhancement of the mauri:

- *Enhancement of the mauri of the Tūtaekurī awa*
- *Enhancement of rongoā and native species proliferation*
- *Enhancement of mahinga kai species proliferation*
- *Realisation of kaitiakitanga for Ngā Hapū o Tūtaekurī.”*

The Plan is set out in sections to align spiritual values with scientific thinking, and in doing so provides areas where future research and management options could be focussed to achieve the hapū’s aspirations for the catchment. These include options that are incorporated by the applicant’s proposal and assessment of it, including riparian planting, habitat protection and restoration, and the effects of air borne contaminants.

Mana Ake, Nga Hapū o Heretaunga, An Expression of Kaitiakitanga, Te Taiwhenua o Heretaunga, March 2015

Mana Ake is a hapū plan that contains a number of values and aspirations for all hapū and tangata whenua of Heretaunga. The plan aspires to ‘*change management within the freshwater space and enhance hapū involvement and greater consideration for hapū within environmental decision making*’.³⁹

The plan is a comprehensive document and includes a list of environmental issues similar to the plans described above. It also sets out expectations of the hapū and guidelines for consultation and engagement which reflects good practice that can be used throughout the consent renewal project.

³⁹ Ngaruroro Values and Attribute Report, 2016.



Assessment Against the Iwi and Hapū Management Plans

Ravensdown have engaged with mana whenua throughout the resource consent process as set out in section 19 of the AEE. Through this engagement Ravensdown has recognised the issues set out in these plans and endeavoured to address the expectations, concerns, and aspirations of tangata whenua as expressed through the various planning documents. This has led to the substantive proposals being advanced in relation to the preferential discharge to land, improvements in source control, and commitment to the HARP.



7 PART 2 OF THE RMA

While consideration of the matters described in s104 of the RMA is “subject to Part 2” of the RMA, this application does not need a major separate assessment under Part 2 of the RMA because the objectives and policies of the relevant planning instruments appear to give a clear expression of what is required to achieve the RMA’s sustainable management purpose in the context of the various resources affected by the applicant’s proposal. In this case, there is little to be gained by a major assessment exercise whereby every aspect of the proposal is assessed against the provisions of Part 2. Part 2 remains relevant, but more as a backdrop that explains the overall outcomes being sought by the lower order national, regional and district planning instruments that are relevant to this application.

In this instance the relevant policy and planning documents have been formulated in a manner to address the RMA’s purpose and principles. While the objectives and policies of some (e.g., the NPSFM) have not yet been fully integrated with the Regional Plan instruments, they provide a very clear direction with respect to the applications and recourse to Part 2 is not necessary to resolve any inconsistencies or policy shortfalls.

Notwithstanding the above, for completeness (and consistent with accepted practice), Part 2 of the RMA has been given consideration and with respect to the key matters in Sections 5, 6, 7 and 8 of the RMA, the following points are pertinent:

Section 5

- Ravensdown through the operations at the Napier Works makes a significant contribution to the regional economy and will be able to continue to provide for the social and economic wellbeing of people and communities in and around Napier, the Hawke’s Bay Region (and wider) through the continued operations at the Site. The Napier Works are themselves a significant physical resource that needs to be sustainably managed.
- The proposal sustains the potential of natural resources to meet the needs of future generations by improving the quality of the discharges to air and water and by environmentally enhancing the life supporting capacity of the Waitangi estuary with the HARP wetland.
- As detailed in this assessment and the accompanying technical reports, the proposal outlined in the application will improve the already minor (or less than minor) effects from the site, and therefore provides for the future operation of the Ravensdown Works, while avoiding, remedying or mitigating adverse effect of activities on the environment.

Section 6

- The HARP wetland and largely land based wastewater disposal will both contribute to and improve the preservation of the natural character of the coastal environment, wetlands and river margins (in the Waitangi Estuary and Tūtaekurī River (sections 6 (a) and 6(c)).
- The water discharge solution has been developed in consultation with mana whenua and other stakeholders and recognises the cultural and ecological significance of the Waitangi Estuary as the current receiving environment for the water discharges from the site and therefore the need to reduce any impacts on this area. The HARP wetland proposal has also been developed from consultation with mana whenua. These aspects of the proposal are consistent with section 6(e).

Section 7

- The water discharge solution and the HARP wetland are therefore both consistent with kaitiakitanga (section 7(a)).
- The overall proposal for consent renewals to enable the continued operation of the Ravensdown Works is consistent with the efficient use and development of natural and physical resources (section 7(b)).
- The improved quality of the discharge to the Waitangi Estuary, the HARP wetland and the use of groundwater to sustain the water flows in the wetland collectively provide for the enhancement of amenity values (section 7(c)), the intrinsic values of ecosystems (section 7d), and maintenance and enhancement of the quality of the environment (section 7(f)). The improved quality of the air discharge is also consistent with section 7(f).

Section 8

- The consultation with mana whenua in developing this proposal and the incorporation of the outcomes of that consultation into the final proposal with the largely land based wastewater discharge and the HARP wetland takes into account the principles of Te Tiriti o Waitangi.

Summary

Overall, this proposal achieves the purpose of the RMA as expressed in the objectives and policies of the relevant planning instruments, that effects of the activity will be avoided, remedied or mitigated in accordance with the expectations of the relevant planning documents and sections 5, 6, 7 and 8 of the RMA, and therefore consideration of Part 2 confirms it is appropriate to grant the consents applied for subject to the conditions proffered by the applicant.



8 CONCLUSIONS

As outlined in this document, and largely due to the locations of proposed activities being spread across coastal and non-coastal environments, there are a number of relevant statutory documents comprising a substantial body of relevant policy guidance requiring consideration for the Napier Works consent renewal proposal. This leads to a reasonably complex framework of considerations where care is needed to ensure correct rules and policies are applied to individual activities included in the proposal.

Overall, a number of different resource consents will be required for the proposal under the RCEP, RRMP, TANK proposed plan, Napier District Plan, NESFW and NESCS.

When applying the 'bundled' approach to the water and land use related activities requiring resource consent from the Regional Council, the project falls to be considered a **Non-complying Activity**.

The overall activity status of the applicant's proposed discharges to air is **Discretionary**.

When applying the 'bundled' approach to the land use related activities requiring resource consent from the District Council, the project falls to be considered a **Discretionary Activity**.

After canvassing the suite of statutory documents pertaining to the site, and having regard to relevant provisions contained within these documents, it is concluded that the applicant's proposal aligns closely with, and overall, achieves these.

