

Reference Number: 2024/1099

29 May 2024

[REDACTED]

Tēnā koe [REDACTED]

Thank you for email of 16 May 2024 requesting under the Local Government Official Information and Meetings Act 1987 (LGOIMA), information relating to the Boffa Miskell report. Please see outlined below a response to your request.

I am writing to request a copy of this report [or part there of] that assesses the feasibility and possible costs for replacing the existing beach across the Waikawa stream at Waikawa Beach please produced for the council by Boffa Miskell.

I would also appreciate you confirming the fee paid by the council to the company for this assessment

In 2023 Horowhenua District Council engaged Boffa Miskell to undertake an assessment of options to allow for vehicle access at Waikawa Beach - you can find this report attached. While reference is made to the pedestrian bridge in the report, the work undertaken by Boffa Miskell was not specifically in relation to replacing the bridge, rather investigating the viability of providing vehicle access at different sites in Waikawa Beach. For this reason, we are unable to provide you the cost for this assessment on the pedestrian bridge.

You are entitled to seek an investigation and review by the Office of the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Horowhenua District Council publishes responses to Local Government Official Information and Meetings Act 1987 (LGOIMA) requests that we consider to be of wider public interest, or which relate to a subject that has been widely requested. To protect your privacy, we will not generally publish personal information about you, or information that identifies you. We will publish the LGOIMA response along with a summary of the request on our website. Requests and responses may be paraphrased.

If you would like to discuss this decision or any of the information provided as part of this request, please contact Brent Harvey (Group Manager Community Experience and Services) on brenth@horowhenua.govt.nz.

Ngā mihi



Nicki Brady
Interim Executive Sponsor

Memorandum

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Attention: Stephan Titze

Company: Horowhenua District Council

Date: 10 July 2023

From: Charles Horrell

Message Ref: Planning Assessment – Waikawa Beach Vehicle Access

This memorandum provides a planning assessment for all associated works related to the proposed Waikawa Beach Vehicle Access Study. This assessment is provided to inform on potential consent requirements and the associated consenting risk of each option that has been identified.

1. Introduction

Beach access to Waikawa Beach has previously been provided at the southern end of Manga Pirau Street (Figure 1). Due to ongoing erosion at this site, there is no longer safe and reliable access to the beach. Horowhenua District Council (“HDC”) have since closed this accessway along with other illegally formed accessways from the terminus of Manga Pirau Street.

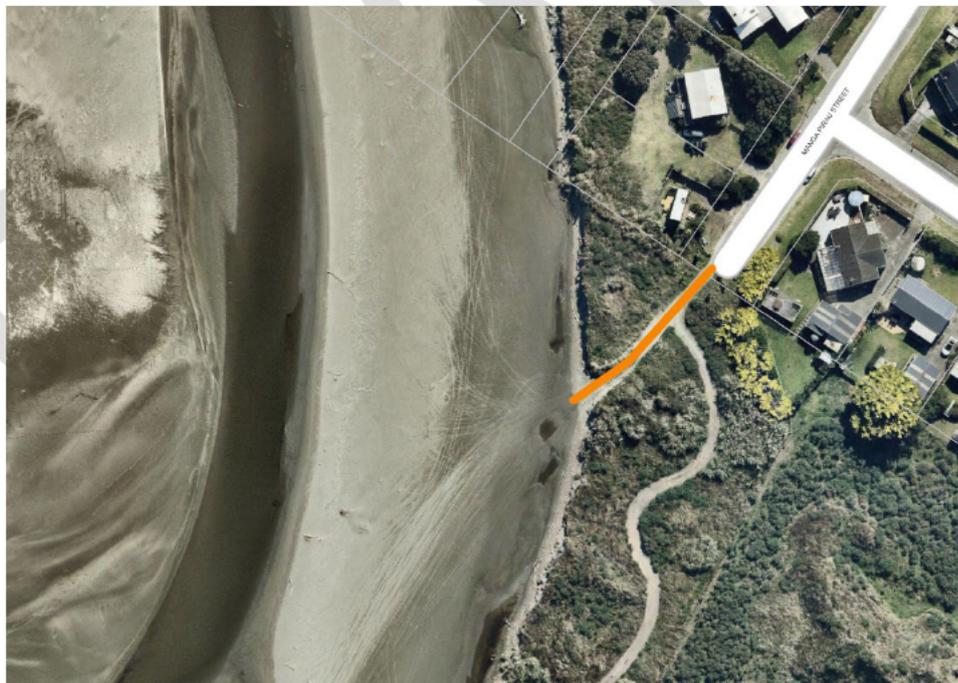


Figure 1: Existing beach access (orange line) crossing privately owned Huritini 6B Block, Waikawa Beach Road

HDC are considering alternative accessways with preference for sites over HDC land. HDC have identified five possible options that will be considered further, including engaging the public and mana whenua groups, to confirm a preferred site. The five current sites identified by HDC staff include the existing access over private land (Option 3) along with four options over council land.

Option 1: Existing Waikawa Stream Pedestrian Bridge

This option would seek to utilise a paper road corridor that is located directly across the stream from an existing pedestrian bridge over Waikawa Stream at the end of Waikawa Beach Road. Under this option, the existing bridge would require replacement and strengthen to enable car access. This would also require an access track to be formed through the foredune system. The location is shown below in **Figure 2**.



Figure 2: Option 1: Existing Waikawa Stream pedestrian bridge and blue line corridor.

Option 2: Council land between Manga Pirau Street and Waikawa Stream

This option would seek to utilise Council owned land that provides access from Manga Pirau Street along the bank of the Waikawa Stream to the beach. This would provide for access in a similar location to the current accessway while ensuring there is no requirement for access over private land. There are two potential routes under this option based on the Council owned parcel (marked A & B on **Figure 3**). Under this option, further erosion protection would be in the form of an engineered structure (groyne) or soft protection (nature-based solution). In addition, to prevent the river channel from continuing to traverse southward, river works (channel cutting) are likely required to divert the river channel north. This option is shown below in **Figure 3**.



Figure 3: Option 2 Council land between Manga Pirau Street and Waikawa Stream (Options 2A north exit 2B south exit indicated by orange lines).

Option 3: Status quo with upgrade

This option would seek to retain the status quo accessway but look to upgrade the access way and installing any associated structures such as signage and barrier arms. Being privately owned land, this will also be subject to obtaining an easement agreement or enter into a strategic land purchase. As with Option 2, erosion protection works, and a likely river cut will be required to mitigate further erosion. This option is shown below in **Figure 4**.



Figure 4: Option 3 Upgrade of current access from the end of Manga-Pirau Street (orange line)

Option 4: New accessway off Reay Mackay Grove (northern)

Under this option, a new accessway would be created over a Council owned parcel of land that adjoins Reay Mackay Grove at its northern extent. The track would be established from the road through the foredune to the beach. This option is shown below in **Figure 5**.



Figure 5: Option 4 Reay Mackay Grove - North Parcel (Blue corridor) with indicative access route (orange line).

Option 5: New accessway off Reay Mackay Grove (southern)

Under this option, a new accessway would be created over a Council owned parcel of land that adjoins Reay Mackay Grove at its northern extent. Like option 4, a track would need to be established from the road through the foredune to the beach. This option is shown below in **Figure 6**.



Figure 6: Option 5 Reay Mackay Grove South Parcel - with enlargement to show narrow width of access parcel.

Under any option, the proposed accessway will require surfacing measures that are resilient and adaptable to the dynamic nature of this environment. Spaces at the track entry for 3-4 vehicles and horse floats is suggested to allow for visitors to bring their horses to the beach.

Based on our understanding, there is anticipated to be some signage and planting to help delineate and mark the entry. At this stage there are no access restrictions proposed. Should antisocial or destructive vehicle use become an issue HDC may in the future look at a gate with swipe card access to control who can access the beach in vehicles.

This planning assessment considers each site to identify any consenting requirements.

2. Planning Assessment

Due to the nature of the proposal, the accessway is likely to be located over both the regional and district boundaries. All works that are undertaken below Mean High Water Springs (“MHWS”) are within the Horizons Regional Council’s jurisdiction, whereas any works above are a combination of Horowhenua District Council and Horizons Regional Council.

I have provided a planning assessment against both the district and regional planning documents below.

3.1 Horowhenua District Plan

The Operative Horowhenua District Plan applies to all works above MHWS. There are no active plan changes that apply to the sites. In terms of the zoning and relevant overlays of the District Plan, the five option sites are shown below in **Figure 7** along with the relevant planning layers.

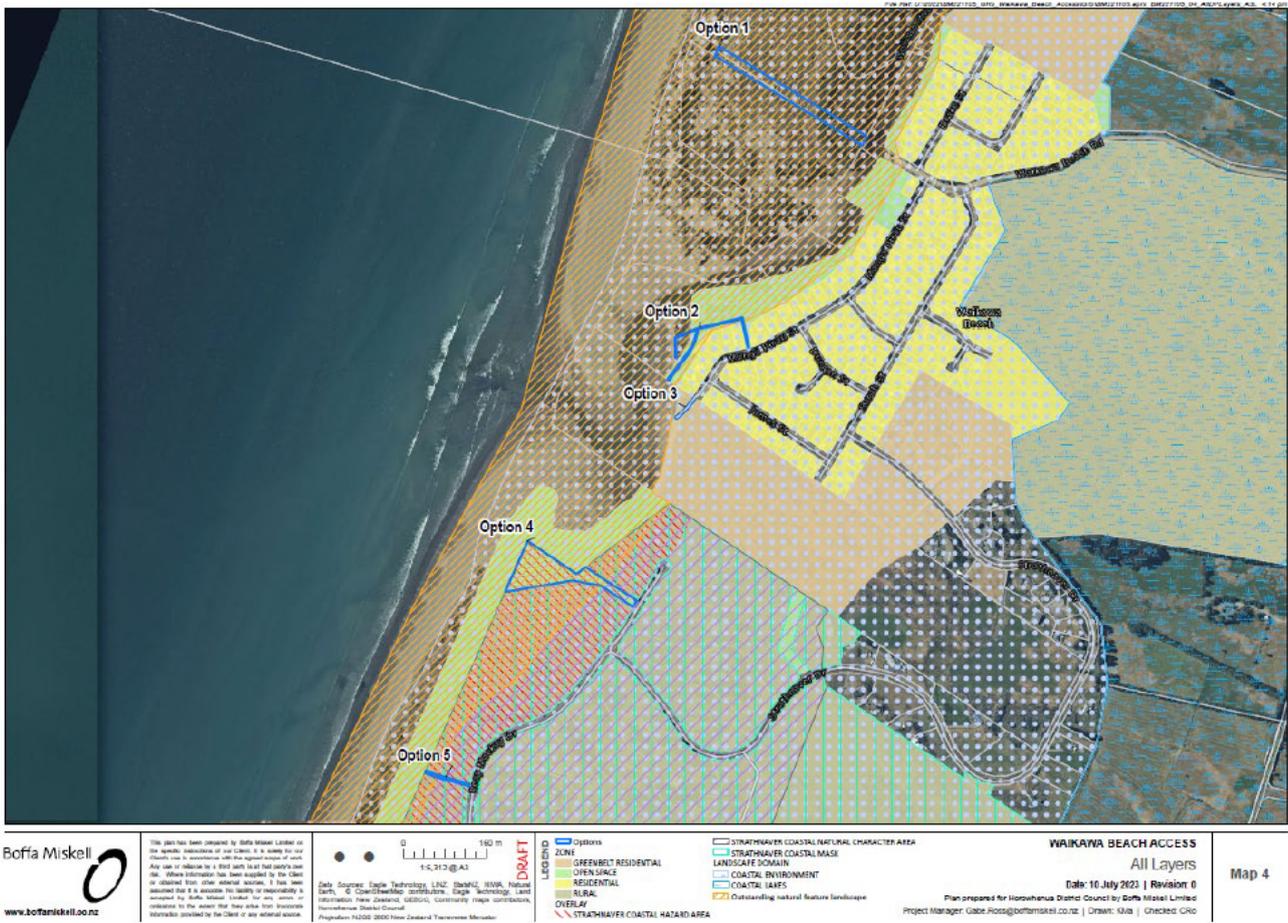


Figure 7: Site locations with Horowhenua District Council zones and overlays.

A summary of the applicable zones and overlays relating to each site is provided below.

Site	Zone	Overlay(s)
Option 1	Rural	Coastal Natural Character and Hazard Area, Coastal Environment, and Outstanding Natural Feature and Landscape
Option 2	Greenbelt Residential	Stathnaver Coastal Natural Character Area, and Coastal Environment
Option 3	Residential and Open Space	Outstanding Natural Feature and Landscape, Coastal Environment, and Stathnaver Coastal Natural Character Area
Option 4 and Option 5	Open Space	Coastal Natural Character and Hazard Area, Stathnaver Coastal Natural Character Area, Strathnaver Coastal Hazard Area, Coastal Environment, and Outstanding Natural Feature and Landscape

In terms of the activities that may trigger consent under the district plan, the proposal would result in earthworks, vegetation clearance and any sign(s). Understand that currently no structures (including a barrier arm) are proposed but could be required in the future. For completeness, I have assessed against the relevant structure rules.

An assessment of each site against the relevant rules is outlined below:

Site	Activity	Comment
Option 1	Land use (accessway)	No specific rule that restricts using land for a public accessway. Will need to comply with the district wide permitted standards for vehicle access – requires a minimum width of 8 m with 5 m formed and metalled to an all-weather standard.
	Earthworks and Vegetation Clearance	The rural zone does not limit earthworks or vegetation clearance at the proposed site, including within the Coastal Natural Character and Hazard Area. Earthworks within an Outstanding Natural Feature and Landscape that is also within a foredune is permitted provided any earthworks are authorised by the Regional Council.
	Signs	Proposed signage will comply with permitted activity rule 19.1(l)(i).
	Structures	Any proposed structure (including a barrier arm) will comply with permitted activity rule 19.1(i).
Option 2	Land use (accessway)	No specific rule that restricts using land for a public accessway. Will need to comply with the district wide permitted standards for vehicle access – requires a minimum width of 8 m with 5 m formed and metalled to an all-weather standard.
	Earthworks and Vegetation Clearance	Earthworks is a permitted activity under rule 18.1(s).
	Signs	Proposed signage will comply with permitted activity rule 15.1(i) of the residential zone and rule 20.1(f)(v) of the open space zone.
	Barrier gate	Any proposed structure (including a barrier arm) will comply with permitted activity rule 18.1(h).
Option 3	Land use (accessway)	No specific rule that restricts using land for a public accessway. Will need to comply with the district wide permitted standards for vehicle access over land within the residential zone – requires a minimum width of 5 m with 4 m formed and metalled to an all-weather standard.
	Earthworks and Vegetation Clearance	Earthworks is a permitted activity under rule 15.1(r).
	Signs	Proposed signage will comply with permitted activity rule 18.1(k).

	Barrier gate	Any proposed structure (including a barrier arm) will comply with permitted activity rule 15.1(g).
Option 4 and Option 5	Land use (accessway)	No specific rule that restricts using land for a public accessway. The vehicle access rules do not have specific minimums for accessways over open space.
	Earthworks and Vegetation Clearance	The rural zone does not limit earthworks or vegetation clearance at the proposed site, including within the Coastal Natural Character and Hazard Area or the Outstanding Natural Feature and Landscape.
	Signs	Proposed signage will comply with permitted activity rule 20.1(f)(v).
	Barrier gate	Any proposed structure (including a barrier gate) is a discretionary activity under rule 20.4(g) where it is located over a Coastal Natural Character and Hazard Area.

Overall, based on the above, no consent would be required for Options 1 - 3, whereas consent will be required as a **discretionary** activity for any structure associated with the proposal (including the barrier arm) at either Option 4 or Site 5. All other activities associated with the proposal will be permitted.

3.2 Proposed Natural Resources Plan

The Horizon's One Plan the culmination of the Regional Policy Statement, Regional Plan and Coastal Plan. There are no active plan changes that apply the coastal aspects of Horizon's One Plan.

In terms of any overlays or scheduled features, Horizon's One Plan identifies Waikawa Stream as an Estuary Water Management Subzone as shown in **Figure 8**.



Figure 8: Extent of Estuary Water Management Subzone.

I have discussed the activities relevant to Horizon's One Plan below.

Land Disturbance and Vegetation Clearance

The proposal will result in land disturbance and vegetation clearance within the foredune system to construct the accessway.

Rules 13-1 and 13-5 of Horizon's One Plan permit up to 2,500 m² of land disturbance and any vegetation clearance subject to the following conditions:

- (a) The activity must not take place on land that is within a coastal foredune
- (b) Erosion and sediment control methods, which may include bunding, silt traps, interception drains or alternative methods to minimise sediment discharge to water must be installed prior to, and maintained during, the land disturbance activity
- (c) Any ancillary discharge of sediment into water must not, after reasonable mixing cause the receiving water body to breach the water quality standards for visual clarity set out in Schedule E for that water body
- (d) The activity must not occur on land that is in, or within 5 m of:
 - (i) the bed of a river that is permanently flowing,
 - (ii) the bed of a river that is not permanently flowing and has an active bed* width greater than 1 m,
 - (iii) the bed of a lake.
- (e) The activity must not occur on land^ that is in, or within 10 m of:
 - (i) A wetland as identified in Schedule F,
 - (ii) Sites valued for Trout Spawning as identified in Schedule B,

In relation to condition (a), all sites are located over a coastal dune and would result in some vegetation clearance and land disturbance. Horizon's One Plan defines "coastal foredune" as *being the strip of land between the coastal marine area and a line roughly parallel with the beach, extending 200 metres inland of the first line of vegetation*. Based on this definition, this condition cannot be met at any of the sites.

For completeness: in terms of the other conditions, conditions (b), (c) and (e) would be complied with at all sites. Condition (d) will be met at Sites 2 and 3 but it is unlikely to be met at Site 1 due to the proximity of Waikawa Stream.

As not all the conditions of the permitted activity rules can be met, the land disturbance and vegetation clearance fall to one of the three rules depending on the nature of the vegetation that may be cleared:

- Discretionary Rule 13-7 if the vegetation is not identified in Schedule F,
- Discretionary Rule 13-8 if the vegetation is identified as "at risk" in Schedule F,
- Non-complying Rule 13-9 if the vegetation is identified as "rare" or "threatened" in Schedule F.

The ecology assessment undertaken by Antony Kusabs has assessed each of the sites against Schedule F¹ of Horizon's OnePlan. Based on this assessment, Antony Kusabs has identified that all sites, except for Option 3, have at least some rare habitat² as identified in Schedule F. Based on this, Option 3 will be a **discretionary** activity in accordance with Rule 13-7, and Options 1, 2, 4 and 5 will be a **non-complying** activity in accordance with Rule 13-9 of Horizon's OnePlan.

Alteration of the Coastal Marine Area

The creation of the accessway is likely to require disturbance, removal and/or deposition of material within the Coastal Marine Area ("CMA"), being any part of the beach or dune system that is below MHWS. Horizon's One Plan permits any "minor disturbances, removal and deposition" within the CMA where it is ancillary to public recreation activities under rule 18-24(d), subject to the following conditions:

- (a) Any materials used must be necessary for the activity and must not be toxic to marine ecosystems.

¹ Indigenous biodiversity significance criteria schedule

² Saltmarsh wetland in Option 1, Active and Stable duneland in Options 2, 4 and 5

- (b) Any materials no longer required as part of the activity, including any temporary structures, must not be stored in or on any foreshore area and must be removed from the CMA upon completion of the activity.
- (c) Refuelling of machinery (other than boats) must not take place in any area where spills may enter the CMA.
- (d) The activity must not disturb any historic heritage identified in the Regional Coastal Plan.
- (e) In the event of an archaeological artefact or kōiwi being discovered or disturbed while undertaking the activity, the activity must cease, and the Regional Council must be notified as soon as practicable to enable the Council to provide advice regarding the appropriate authorities to be contacted. The activity must not be recommenced without the approval of the Regional Council.

Based on my understanding of the proposed construction of the accessway, all of the above conditions can be complied with. Any disturbance, removal and/or deposition of material within the CMA will therefore be a **permitted** activity.

Occupation of the Coastal Marine Area

There are rules within Horizon's One Plan that relate to the occupation of the CMA through use of a structure or by other means. The intent of the rules to ensure activities do not restriction or preclusion public access to the CMA. Based on my understanding of the proposal, there would be no structure or other means within the CMA that would result in a restriction or preclusion of access to the CMA. Therefore, rules relating to occupation of the CMA are not applicable.

River cut

It is understood that under Options 2 and 3, a river cut will be necessary in order to avoid the progressive movement of the channel southward and loss of a secure accessway to the beach. We understand the Horizons has historically held consent to undertake similar works which include periodically dredging the channel through to the mouth and redirect flows north. The consent has since expired and was not replaced. HDC would be seeking to undertake similar works.

There are no permitted activity rules that provide for periodic river cutting. The activity therefore falls to **discretionary** activity rule 18-44.

Erosion protection structures

It is understood that for Options 2 and 3, erosion protection structures may be required. These structures could be either hard engineered structures (e.g. groynes) or softer nature based solution structures. In both cases, there are no specific rules that permit or otherwise new structures for erosion protection. The activity therefore falls to **discretionary** activity rule 18-44.

Bridge or Culvert

It is understood that there is an existing pedestrian bridge at Waikawa Stream at the access point for Option 1. To enable vehicle access, the bridge would need to be replaced with a single span vehicle bridge, or culvert crossing.

Rule 17-10 permits the construction of a culvert and Rule 17-11 permits the construction of a bridge. In either case, the following conditions must be met to comply with permit rule:

- a. The bridge or culvert is not located within a river identified in Schedule B Value of Flood Control and Drainage.
- b. The bridge is no greater than 20 m²;
- c. The culvert is culvert, associated fill and culvert placement must comply with the following dimensions:
 - i. a maximum culvert length of 20 m
 - ii. for circular culverts a culvert diameter of 0.3 m to 1.2 m (inclusive)
 - iii. for non-circular culverts a width and height of 0.3 m to 1.2 m each (inclusive)
 - iv. a maximum fill height of 2 m above the top of the culvert unless a spillway is constructed to enable the passage of a 200 year flood without the fill being overtopped
 - v. a minimum culvert installation depth below the bed[^] of 20% of the width of the culvert.
- d. General mitigation measures are required under Section 17.3 of Horizon's One Plan, including minimising the area of disturbance and release of sediment.

- e. The culvert is designed to allow:
 - i. the flow from a 5% annual exceedance probability (20 year return period) flood event without overtopping, unless the overtopping flows to a specifically designed spillway
 - ii. the flow from a 2 year return period flood event without any flow impediment.
- f. The culvert or bridge is maintained so to not cause erosion, scouring or build up of material.

While we have not been provided details on any proposed culvert or bridge, we anticipate that the conditions will likely be met. Therefore, the placement of a bridge or culvert is likely to be a **permitted** activity in accordance with either Rule 17-10 or 17-11 of Horizon's One Plan.

1.2 National Environmental Standard for Freshwater Management

The National Environmental Standard for Freshwater Management ("NES-FW") provides nationally consistent rules in relation to land use and development that impacts freshwater bodies. The NES-FW is applicable to works within or close proximity to natural inland wetland and to specific activities within the bed of a river.

Natural Inland Wetlands

Regulations limit earthworks and vegetation clearance within or in close proximity to any natural inland wetland. Following Antony Kusabs ecology assessment, it has been confirmed that Option 1 does have a natural inland wetland located on the site. The approximate extent of the wetland is shown in **Figure 9**.



Figure 9: Possible extent of Natural Inland Wetland near Site 1.

As the proposed accessway will traverse this wetland for Option 1, Regulations 52, 53 and/or 54 would apply to any earthworks and vegetation clearance in proximity to the wetland. The applicable regulations depending on the proximity to the wetland and whether any partial (or full) drainage would occur. 'Partial drainage' is not defined but can be understood to mean any hydrological change to a wetland system.

A summary of the potential activity status depending on the proximity and nature of earthworks/vegetation clearance is shown in **Table 1**.

Table 1: Summary of potential activity status for vegetation clearance and earthworks within proximity of a Natural Inland Wetland.

Activity	Proximity to Natural Inland Wetland	Causes partial drainage?	Activity status
Vegetation Clearance	Within, or within 10 m of	N/A	Non-complying (Regulation 54)
Earthworks	Within	Yes	Prohibited (Regulation 53)
		No	Non-complying (Regulation 54)
	Not within, but within 100 m setback of	Yes	Non-complying (Regulation 52)
		No	If within 10 m setback – Non-complying (Regulation 54)
		No	If more than 10 m setback - NES-FW doesn't apply

As shown above, if works are likely to occur within 10 m of a natural wetland, best case would be a non-complying activity status. In order to confirm which regulation(s) would apply, further information will be required in relation to the extent of any natural wetlands at the site, scale of earthworks and potential for 'partial drainage'.

Culvert

As noted above, a culvert (or bridge) is likely to be required for Option 1. Regulation 70 permits the placement of culverts subject to conditions. This regulation applies in addition to Rule 17-10 of Horizon's One Plan. The following conditions apply to this regulation:

- a. Fish passage is maintained.
- b. The culvert is laid parallel to the slope of the bed of the river or connected area.
- c. The mean cross-sectional water velocity in the culvert is no greater than that in all immediately adjoining river reaches.
- d. The culvert's width where it intersects with the bed of the river or connected area (s) and the width of the bed at that location (w), both measured in metres, must compare as follows:
 - i. where $w \leq 3$, $s \geq 1.3 \times w$:
 - ii. where $w > 3$, $s \geq (1.2 \times w) + 0.6$
- e. The culvert is open-bottomed or its invert must be placed so that at least 25% of the culvert's diameter is below the level of the bed.
- f. The bed substrate is present over the full length of the culvert and stable at the flow rate at or below which the water flows for 80% of the time.
- g. The culvert provides for the movement of sediment and debris.

Again, while there is currently limited detail provided on any potential culvert, we would anticipate that it can be designed and constructed in a way to meet the permitted regulation. The placement of a culvert is therefore a **permitted** activity in accordance with Regulation 70 of the NES-FW.

1.3 Summary

Based on my assessment above, I have indicated any consenting requirement for each option in the table below:

Option	District Consenting		Regional Consenting	
	Consent required?	Activity status	Consent required?	Activity status ³
Option 1	No	Permitted	Yes	Non-complying or prohibited
Option 2	No	Permitted	Yes	Non-complying
Option 3	No	Permitted	Yes	Discretionary
Option 4	Yes	Discretionary	Yes	Non-complying
Option 5	Yes	Discretionary	Yes	Non-complying

³ Based on overall status with most stringent taken

3 Consenting Risks

Each option contains a level of consenting risk. I have outlined some of the key risks to be aware of and an overall summary of the consent risk for each option below.

Activity status

Based on the assessment of each option, the potential activity statuses ranged from discretionary to prohibited. Of those, the discretionary activity status brings the least consent risk, but still enables the consent authority to consider all relevant adverse effects and provides the option for the consent to be declined. A non-complying status that would be relevant for most of the options is the most onerous activity status that can be applied in a consent process. This status sets a requirement for a proposal to meet a 'gateway test' in order to be granted where there must be evidence that either:

- (a) The proposal is consistent with the planning policy, or
- (b) The adverse effects are no more than minor.

A prohibited status that could apply to Option 1 would mean that this activity cannot occur at all (no consent can be sought). If Option 1 is considered the preferred option, I recommend early engagement with a geohydrologist to advise the potential for 'partial drainage'.

Effects

With any application, a proportionate level of effects will need to be provided. Depending the values at each site, this may pose differing levels of risk depending on the ability to manage the adverse effects. There is potential for the following values to be impacted:

- Cultural values of significance to Ngati Wehiwehi,
- Terrestrial ecological,
- Aquatic ecological within Waikawa Stream,
- Natural character,
- Coastal geomorphology.

Cultural values are currently being advised on by mana whenua but to date there has been no identification of sites of significance within any of the options.

Terrestrial values have been assessed by Antony Kusabs and the values at each site have been summarised as follows:

	Level of vehicle disturbance	At Risk taxa present	Indigenous active fore dune	Wetlands present	Indigenous dominated stable dune land	High land area	TOTAL (Maximum of 6.0)
Option 1 (0.67ha)	0.5	1	0.5	1	0	1	4.0
Option 2a (0.25ha)	0	0.5	0.25	0	0.25	0.25	1.25
Option 2b (0.24ha)	0	0	0.5	0	0.25	0.25	1.0
Option 3	0	0	0.1	0	0	0.1	0.2
Option 4 (0.46ha)	0	1	1	0	0	0.5	2.5
Option 5 (0.13ha)	0	0.5	0.5	0	1	0.75	2.75

Each component is scored between 0 and 1, with a maximum total score of 6. A score between 4 and 6 would be seen as an avoid. A score between 0 and 2 would have limited constraints or constraints that can be managed. A score between 2 and 4 has constraints that may be able to be managed.

Based on this assessment, all options except Option 3, have areas of significant habitat.

Aquatic ecological values are yet to be assessed. But for the purposes of this advice, it can be assumed that the values are at least moderate – high being an estuarine environment. If river cutting associated with Options 2 and 3 become a preferred option, it is recommended that further aquatic ecology assessment is undertaken to understand the values impacted.

The natural character between the sites differs depending on the level of modification. A coastal natural character overlay is identified at Options 2 – 5 and based on observations at site, Options 4 and 5 would contain the highest level of natural character. In any case, an assessment will be required to identify the current natural character values at the site and an assessment of any change/reduction to the natural character as a result of the accessway.

Due to the nature of the site being an active dune system, an assessment against aeolian processes will be required. This relates both the adverse effect on potential sand movement landward of the dunes to neighbouring properties, and any impact the proposal would cause to coastal processes. A high-level assessment of each of the options has been provided by a Coastal Geomorphologist. Based on their assessment, sites further south are less susceptible to coastal processes. As noted, Options 2 and 3 are particularly susceptible to coastal erosion and will require some form of protection. These structures may dissipate erosion issues in targeted areas but can exacerbate issues elsewhere or become a coastal hazard. A robust assessment justifying the proposed structures will be required.

Policy direction

The policy direction of planning documents will be relevant to any application. As noted, if the activity status is non-complying, it will be critical that the proposal is consistent with the policy direction.

I have discussed the key policy directives of the national and regional policy below and have provided the policies in full in **Appendix 1**.

New Zealand Coastal Policy Statement

As all the options are located within the Coastal Environment, the New Zealand Coastal Policy Statement will apply.

Policy 11 relates to the protection of indigenous biodiversity within the Coastal Environment. The policy directs to avoid adverse effects on certain ecological values of significance and avoid significant adverse effects on all other ecological values. The term 'avoid' has been clarified by the Courts as simply meaning to "not allow". Based on Antony Kusabs assessment, all options except Option 3 would contain significant values that would require avoidance by Policy 11. Of the options the greatest constraint to avoidance will be in Options 1, 4 and 5.

Policy 13 relates to the protection of natural character. The policy requires avoidance of adverse effects on areas of outstanding natural character, and avoidance of significant adverse effects on all other natural character. None of the options are located over areas of outstanding natural character, but an assessment will be required to confirm that significant adverse effects as a result of removal of indigenous vegetation will be avoided.

Policies 19 and 20 relate to providing for public access to the coastal marine area. Policy 19 requires that walking access is maintained and enhanced, whereas Policy 20 requires that vehicle access is 'controlled'. This will require a demonstration that existing walking access will continue to be maintained (and enhanced) as a result of the new access way, and that the effects caused by use of vehicles on the beach and dunes will be effectively managed.

Policy 25 relates to development within areas of coastal hazard risk. This is generally applicable to all options but will be particularly relevant to Options 2 and 3 which may include specific erosion protection measures. I highlight clause (e) of the policy which directs to "discourage hard protection structures and promote use of alternatives...". If an engineered structure(s) is required for Options 2 or 3, there will need to be detailed assessment of alternatives that justifies it is necessary.

National Policy Statement for Freshwater Management

Options where a wetland (Option 1) or a river (Options 2 and 3) are interacted with will require consideration against the National Policy Statement for Freshwater.

Policy 6 directs that there is no further loss to natural inland wetlands. Guidance provided in the NPS indicated that this is achieved through avoiding activities that could cause a loss to the extent, unless they have a functional need⁴, and they can follow the “effects management hierarchy⁵”. As this relates to Option 1, I note that it would be unlikely to meet the function need test which requires evidence that the accessway can only occur in that location – this test also does not consider practical and economic constraints.

Policy 7 requires that loss to the extent and values of rivers is avoided. Whether an activity causes loss of extent or values will be dependent on the extent of the works and the ecological values present, but generally speaking, the river cut that would be required under Options 2 and 3 is likely to result in a loss of river values. Similar to Policy 6, the NPS gives direction for achieving this through requiring activities to be of a functional need and that they follow the effects management hierarchy. Again, I would caution that the being of a functional need will be a difficult test to met in the context of Options 2 and 3 given they may be other methods of achieving the result without loss of river values. There will also need to be methods for managing ecological values in accordance with the effects management hierarchy during works – this may include adaptive management and ecological offsetting.

Horizon’s OnePlan

The direction of Horizon’s OnePlan will apply in some way to all options.

Policy 13-4 provides direction to decision makers in assessing applications where there is clearance of indigenous biodiversity. The policy looks to give effect to Policy 11 of the NZCPS and cross references to Schedule F for identifying the significance of ecological values. As noted, the vegetation significance has been assessed at each of the options and there is “rare” habitat located within all options except Option 3. The policy provides direction on how effects are managed with preference towards avoidance, but where avoidance is not practicable, those effects are otherwise offset to provide for an ecological net gain.

Policy 18-5 will be applicable to any erosion protection structures (Options 2 and 3) and sets out matters that the decision makers should consider in assessing the appropriateness of a new structure. Among other things, this policy requires the policy to have a functional need, to be designed in a way that does not cause a coastal hazard and is suitable for that environment. This will require an assessment from the coastal geomorphologist to confirm.

Policy 18-9 relates to the disturbance of the coastal marine area and provides direction to decision makers for matters to consider. This policy will be directly relevant to any river cut required under Options 2 and 3 but will also apply more broadly to all options through the impact it has on the coastal environment. Included in those matters are ecological considerations and avoidance f effects on tikanga Māori. The latter can only be achieved through effective engagement with mana whenua and understanding of the values of significance.

Summary

To assist in understanding the consenting risk associated with each option, I have provided an indication of each option using a 5-point scale⁶ and a traffic light system:

Option	Cultural values ⁷	Terrestrial Ecology	Aquatic ecology	Natural Character	Coastal geomorphology	Overall
Option 1	Moderate	Very high	High	Moderate	Moderate	Very high
Option 2	Moderate	Low	High	Low	Moderate	Low – very high ⁸
Option 3	Moderate	Very low	High	Very low	Moderate	Low – very high ⁸
Option 4	Moderate	High	Very low	Moderate	Low	Moderate - high

⁴ Defined in the NPS-FM as: 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

⁵ Directs how adverse effects are managed beginning with avoidance and moving through to compensation

⁶ Very low, low, moderate, high and very high

⁷ Making an assumption that there are no sites of significance located at any of options

⁸ Depending on whether the river cut is required and the associated river values

Option 5	Moderate	High	Very low	Moderate	Low	High
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Conclusion and next steps

Based on the assessment above, all five of the current options will at least require consent from Horizons Regional Council. Notwithstanding a potential prohibited status for Option 1, the likely activity status for a consent application will either be discretionary or non-complying. An assessment of the associated consent risk each of the options has been provided above, including consideration against the relevant effects and the policy direction. Based on this, an overall consent risk has been provided for each option. Key points to highlight from this assessment are as follows:

- The rare habitats identified in Antony Kusabs ecology assessment pose a risk if they cannot be avoided,
- The wetland situated within the Option 1 site poses a significant consent risk and if not prohibited will require a robust ecological and alternatives assessment,
- The river cut that may be required by Options 2 or 3 pose a high consent risk depending on the aquatic values present and the extent of works,
- Engineered erosion protection structures that may be required by Options 2 or 3 will need to be supported by evidence that they are necessary and appropriate rather than alternatives.

Yours sincerely

BOFFA MISKELL LTD



Charles Horrell
Planner

Appendix 1: Relevant Policies

New Zealand Coastal Policy Statement

Policy 11: Indigenous biological diversity (biodiversity)

- a. avoid adverse effects of activities on:
 - i. indigenous taxa that are listed as threatened 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; and
- b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:
 - i. areas of predominantly indigenous vegetation in the coastal environment;
 - ii. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
 - iii. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
 - iv. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
 - v. habitats, including areas and routes, important to migratory species; and
 - vi. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

Policy 13: Preservation of natural character

1. To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:
 - a. avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
 - b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:
 - c. assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
 - d. ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.
2. Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:
 - a. natural elements, processes and patterns;
 - b. biophysical, ecological, geological and geomorphological aspects;
 - c. natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;
 - d. the natural movement of water and sediment;
 - e. the natural darkness of the night sky;
 - f. places or areas that are wild or scenic;
 - g. a range of natural character from pristine to modified; and
 - h. experiential attributes, including the sounds and smell of the sea; and their context or setting.

Policy 19: Walking access

1. Recognise the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use.
2. Maintain and enhance public walking access to, along and adjacent to the coastal marine area, including by:
 - a. identifying how information on where the public have walking access will be made publicly available;
 - b. avoiding, remedying or mitigating any loss of public walking access resulting from subdivision, use, or development; and
 - c. identifying opportunities to enhance or restore public walking access, for example where:
 - i. connections between existing public areas can be provided; or
 - ii. improving access would promote outdoor recreation; or
 - iii. physical access for people with disabilities is desirable; or
 - iv. the long-term availability of public access is threatened by erosion or sea level rise; or
 - v. access to areas or sites of historic or cultural significance is important; or
 - vi. subdivision, use, or development of land adjacent to the coastal marine area has reduced public access, or has the potential to do so.
3. Only impose a restriction on public walking access to, along or adjacent to the coastal marine area where such a restriction is necessary:
 - a. to protect threatened indigenous species; or
 - b. to protect dunes, estuaries and other sensitive natural areas or habitats; or
 - c. to protect sites and activities of cultural value to Māori; or
 - d. to protect historic heritage; or
 - e. to protect public health or safety; or
 - f. to avoid or reduce conflict between public uses of the coastal marine area and its margins; or
 - g. for temporary activities or special events; or
 - h. for defence purposes in accordance with the Defence Act 1990; or
 - i. to ensure a level of security consistent with the purpose of a resource consent; or
 - j. in other exceptional circumstances sufficient to justify the restriction.
4. Before imposing any restriction under (3), consider and where practicable provide for alternative routes that are available to the public free of charge at all times.

Policy 20: Vehicle access

1. Control use of vehicles, apart from emergency vehicles, on beaches, foreshore, seabed and adjacent public land where:
 - a. damage to dune or other geological systems and processes; or
 - b. harm to ecological systems or to indigenous flora and fauna, for example marine mammal and bird habitats or breeding areas and shellfish beds; or
 - c. danger to other beach users; or
 - d. disturbance of the peaceful enjoyment of the beach environment; or
 - e. damage to historic heritage; or
 - f. damage to the habitats of fisheries resources of significance to customary, commercial or recreational users; or
 - g. damage to sites of significance to tangata whenua; might result.
2. Identify the locations where vehicular access is required for boat launching, or as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities, and make appropriate provision for such access.
3. Identify any areas where and times when recreational vehicular use on beaches, foreshore and seabed may be permitted, with or without restriction as to type of vehicle, without a likelihood of any of (1)(a) to (g) occurring.

Policy 25: Subdivision, use, and development in areas of coastal hazard risk

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

- a. avoid increasing the risk¹⁰ of social, environmental and economic harm from coastal hazards;
- b. avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;
- c. 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;
- d. encourage the location of infrastructure away from areas of hazard risk where practicable;
- e. discourage hard protection structures and promote the use of alternatives to them, including natural defences; and
- f. consider the potential effects of tsunami and how to avoid or mitigate them.

National Policy Statement for Freshwater Management

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

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

Horizon's OnePlan

Policy 13-4: Consent decision-making for activities in rare habitats*, threatened habitats* and at-risk habitats*

- a. For activities regulated under Rule 13-8 and 13-9, the Regional Council must make decisions on consent applications and set consent conditions[^] on a case-by-case basis:
 - i. For all activities, having regard to:
 - a. the Regional Policy Statement, particularly Objective 6-1 and Policy 6-2,
 - b. a rare habitat* or threatened habitat* is an area of significant indigenous vegetation or a significant habitat of indigenous fauna,
 - c. the significance of the area of habitat, in terms of its representativeness, rarity and distinctiveness, and ecological context, as assessed under Policy 13-5,
 - d. the potential adverse effects[^] of the proposed activity on significance,
 - e. for activities regulated under ss13, 14 and 15 RMA, the matters set out in Policy 13-2(k) and relevant objectives and policies in Chapters 5, 14, 16 and 17, and
 - f. for activities involving a discharge[^], the matters in Policy 14-9.
 - ii. For electricity transmission and renewable energy generation activities, providing for any national, regional or local benefits arising from the proposed activity.
- b. Consent must generally not be granted for resource use activities in a rare habitat*, threatened habitat* or at-risk habitat* assessed to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna under Policy 13-5, unless:
 - i. any more than minor adverse effects[^] on that habitat's representativeness, rarity and distinctiveness, or ecological context assessed under Policy 13-5 are avoided.
 - ii. where any more than minor adverse effects[^] cannot reasonably be avoided, they are remedied or mitigated at the point where the adverse effect[^] occurs.
 - iii. where any more than minor adverse effects[^] cannot reasonably be avoided, remedied or mitigated in accordance with (b)(i) and (ii), they are offset to result in a net indigenous biological diversity[^] gain.

- c. Consent may be granted for resource use activities in an at-risk habitat* assessed not to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna under Policy 13-5 when:
 - i. there will be no significant adverse effects^ on that habitat's representativeness, rarity and distinctiveness, or ecological context as assessed in accordance with Policy 13-5, or
 - ii. any significant adverse effects^ are avoided.
 - iii. where any significant adverse effects^ cannot reasonably be avoided, they are remedied or mitigated at the point where the adverse effect occurs.
 - iv. where significant adverse effects^ cannot reasonably be avoided, remedied or mitigated in accordance with (c)(ii) and (iii), they are offset to result in a net indigenous biological diversity^ gain.
- d. An offset assessed in accordance with b(iii) or (c)(iv), must:
 - i. provide for a net indigenous biological diversity^ gain within the same habitat type, or where that habitat is not an area of significant indigenous vegetation or a significant habitat of indigenous fauna, provide for that gain in a rare habitat* or threatened habitat* type, and
 - ii. reasonably demonstrate that a net indigenous biological diversity^ gain has been achieved using methodology that is appropriate and commensurate to the scale and intensity of the residual adverse effect^, and
 - iii. generally be in the same ecologically relevant locality as the affected habitat, and
 - iv. not be allowed where inappropriate for the ecosystem or habitat type by reason of its rarity, vulnerability or irreplaceability, and
 - v. have a significant likelihood of being achieved and maintained in the long term and preferably in perpetuity, and
 - vi. achieve conservation outcomes above and beyond that which would have been achieved if the offset had not taken place.

Policy 18-5: Consent decision-making for new structures^

When making decisions on *resource consent^* applications and setting consent *conditions^* for *structures^* in the CMA, the Regional Council must have regard to:

- a. the Regional Policy Statement, particularly all the objectives and policies of Chapters 2 and 8, Objective 3-1 and Policies 3-1, 3-2, 3-3, 3-6 and 3-7, Objective 6-2 and Policy 6-6, Objective 9-1 and Policies 9-3 to 9-5 and any relevant policies in the NZCPS;
- b. the functional necessity for locating the *structure^* in the CMA;
- c. the provisions for public access and safety, including navigation safety;
- d. the avoidance, where practicable, of any adverse *effects^* on natural character and landscape, *tikanga Māori^*, *historic heritage^*, indigenous flora and fauna, and the stability of *river^* banks and the *foreshore^*. Where avoidance is not reasonably practicable, the adverse *effects^* must be remedied or mitigated;
- e. whether the *structure^* is of a suitable scale for the surrounding area, and uses the *space^* in the CMA efficiently;
- f. whether the *structure^* is to be built and maintained in a manner to withstand coastal processes and *natural hazards^*, including any potential *effects^* of *climate change^* and *sea level rise^*;
- g. any consequential adverse *effects^* on other parts of the coast including whether the *structure^* may affect sediment transport or exacerbate erosion or the risk of inundation; and
- h. whether the *structure^* contributes to any cumulative adverse *effects^* in the vicinity of the proposed *structure^*.

Policy 18-9: Consent decision-making for activities involving disturbance, removal or deposition

When making decisions on *resource consent^* applications and setting consent *conditions^* for activities involving the disturbance of the *foreshore^* or seabed, the deposition of substances in, on or under the *foreshore^* or seabed, or the removal of any sand, shell, shingle or other natural materials from the CMA, the Regional Council must have regard to:

- a. the Regional Policy Statement, particularly all the objectives and policies of Chapters 2 and 8, Objective 3-1 and Policies 3-1, 3-2, 3-3, 3-6 and 3-7, Objectives 6-2 and 6-3, and Policies 6-6 and 6-11, Objective 9-1 and Policies 9-3 to 9-5 and any relevant policies in the NZCPS;
- b. the applicable *Water Management Zone** or *Sub-zone** and the relevant *water*[^] quality Values and targets in Schedule I;
- c. avoiding any restrictions on public access, other than for commercial, safety, cultural or conservation purposes, or to ensure a level of security appropriate for activities authorised by a *resource consent*[^], and any adverse *effects*[^] on natural character and any known and publicly used shellfish beds;
- d. any *effects*[^] on any feeding, breeding, spawning, nesting or roosting areas;
- e. avoiding as far as reasonably practicable, any resultant adverse *effects*[^] on coastal erosion, the risk of inundation, the stability of banks or *foreshore*[^], or flood control *structures*[^];
- f. avoiding any adverse *effects*[^] on *tikanga Māori*[^] or on *historic heritage*[^], and avoiding, remedying or mitigating any adverse *effects*[^] on any characteristic identified within any Protection Activity Management Area set out in Table I.1;
- g. mitigating any adverse *effects*[^] on recreational and *amenity values*[^];
- h. ensuring, where non-marine material is being deposited within the CMA, that it does not contain any *hazardous substances** or commercial or household *wastes**; and
- i. where the removal of sand, shingle, shell or other natural materials is for commercial purposes, the available alternatives to the applicant's proposal and the applicant's reason for making the proposed choice.