



**MARLBOROUGH
DISTRICT COUNCIL**

RESOURCE CONSENT APPLICATION

U230235

Marlborough District Council – Marlborough Roads

Port Marlborough Road Network (Waikawa Bay
to Rarangi Beach Road)

Submissions Close

5.00 pm Thursday 22 June 2023

Vicky Wiblin

From: Anderson, Alan <Alan.Anderson@wsp.com>
Sent: Thursday, 13 April 2023 2:13 pm
To: RCInbox
Cc: SMITH Simon; Denize, Summer; McDonald, Hannah; SMITH, Simon
Subject: Lodgement Port Underwood Zonal Consent - MDC (Marlborough Roads)
Attachments: WSP Port Underwood Zonal RCA02 - For Lodgement.pdf; Cover Letter MRRT Zonal Consents FP and PU.pdf

Hello MDC Consents Team,

Please find attached cover letter and resource consent application for the zonal area of Port Underwood. This consent is for flood recovery works from the August 2022 flood event.

In regards to the lodgement fee, the applicant is MDC - Marlborough Roads, so it is anticipated to be an internal transfer.

Note the Appendices referenced within are large and can be accessed via this dropbox link.
<https://www.dropbox.com/scl/fo/fgvmu582p05fya225oplw/h?dl=0&rlkey=570lxv6irizc531bjk82oj2e>

Please let me know if you need assistance with any of the documents or links.

Kind regards
Alan



Alan Anderson
Senior Planner, Blenheim

T: +64 3 578 0103
M: +64 27 241 6385
Alan.Anderson@wsp.com

wsp.com/en-nz

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13 April 2023

Anna Davidson
Marlborough District Council
PO Box 7240
Blenheim 7240

Re: Marlborough District Council (Marlborough Roads) – Zonal Consenting for Flood Recovery Works, August 2022

Port Underwood and French Pass Applications

Dear Anna,

I am writing to you on behalf of the Marlborough Roads Recovery Team. Our team is seeking to apply for the necessary consents to enable recovery works and retrospective activities on the Marlborough Road network following the flood event that occurred in August 2022. As you are aware, the flood event caused significant damage to the road network in Marlborough, resulting in closures and disruptions to local communities and businesses.

Our initial meeting on the former flood recovery consent package for the July 2021 event was on 22 September 2021 where it was subsequently agreed that consent for 5 zonal areas could be submitted. Initially these were: Kenepuru Sound, Queen Charlotte Drive (including Kaiuma), Awatere, Waihopai and Northbank. These were submitted in July 2022.

However, following the August 2022 flood event, our team has identified two additional zonal areas that also require a suite of consents in place to enable outstanding recovery works. These two areas are the Port Underwood Zone and French Pass Croisilles Zone.

We have attached all relevant documents to support our zonal applications for these two remaining areas, including Form 9 for each application, which is enclosed in the front section of the resource consent application document.

If you or your team have any queries regarding the applications, please feel free to contact me. We appreciate your attention to this matter and look forward to hearing from you soon.

Yours Sincerely,

Alan Anderson
Senior Planner, Blenheim

Project Number: M-NCLR2.FR

Marlborough Roads Storm Recovery – Port Underwood Zone

Resource Consent Application to Marlborough District Council

February 2023



Contact Details

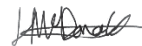
Alan Anderson

WSP
19 Henry Street
Blenheim 7012
03 520 9500
027 241 6385
alan.anderson@wsp.com

Document Details:

Date: 22 February 2023
Reference: M-NCLR2.FR
Status: Issue

Prepared by

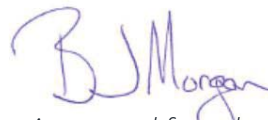


Hannah McDonald



Reviewed by

Kelly Menchenton



Approved for release by
Brent Morgan

Document History and Status

Revision	Date	Author	Reviewed by	Approved by	Status
001	16/02/2022	H. McDonald	K. Menchenton		Draft
002	23/02/2022	H. McDonald	K. Menchenton	Brent Morgan	Issue

Revision Details

Revision	Details
001	Draft for internal / Client review
002	For Issue

Disclaimers and Limitations

This report ('**Report**') has been prepared by WSP exclusively for the Marlborough Roads Recovery Team on behalf of the Marlborough District Council ('**Client**') in relation to the Zonal Consenting – August 2022 flood event ('**Purpose**') and in accordance with the Notice to Subcontractor reference number 0097 with the Client dated 24 November 2022. The findings in this Report are based on and are subject to the assumptions specified in the Report and the VSF 057FD 055 dated 20 September 2022. WSP accepts no liability whatsoever for any reliance on or use of this Report, in whole or in part, for any use or purpose other than the Purpose or any use or reliance on the Report by any third party.

In preparing the Report, WSP has relied upon data, surveys, analyses, designs, plans and other information ('**Client Data**') provided by or on behalf of the Client. Except as otherwise stated in the Report, WSP has not verified the accuracy or completeness of the Client Data. To the extent that the statements, opinions, facts, information, conclusions and/or recommendations in this Report are based in whole or part on the Client Data, those conclusions are contingent upon the accuracy and completeness of the Client Data. WSP will not be liable in relation to incorrect conclusions or findings in the Report should any Client Data be incorrect or have been concealed, withheld, misrepresented or otherwise not fully disclosed to WSP.

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Appendix C: Environmental and Social Management Plan
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Appendix E: Culvert Assessments Sheets - Fish Passage
Appendix F: Objectives and Policies Assessment PMEP, MSRMP and WARMP
Appendix G: Volunteered Conditions
Appendix H: Consultation - Iwi Engagement, DOC
Appendix I: DOC Submission on 5 Submitted Zonal Consent Applications
Appendix J: Archaeological Assessment

Application Form

APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

TO: MARLBOROUGH DISTRICT COUNCIL
Resource Consents Manager
PO Box 443
BLENHEIM 7240

FROM: MARLBOROUGH DISTRICT COUNCIL (Marlborough Roads)
Attn: Steve Murrin
PO Box 1031
Blenheim 7240

(Note: Addresses for service and invoicing are shown on the following page)

1. Marlborough District Council (Marlborough Roads) applies for the following types of resource consent:

RMA	Consent	Activity	Term
S.9	Land Use - Land Disturbance	To undertake excavation and filling to facilitate road network repair works and stabilisation of adjoining land.	10 years
S.9	Land Use - Activity	To undertake indigenous vegetation removal for site access and for stabilisation of slips. To place structures (retaining and stabilisation) within 8m of watercourses.	10 years
S.12	Coastal Marine Area - Activity	To disturb the foreshore or seabed as required for the clearance of any slip material or stabilisation of slip surfaces.	10 years
S.13	River or Surface Bed Activity	To replace and repair stream crossings and associated road protection structures. To install culverts that in some instances do not meet Regulation 70(1) of the NES-F To disturb the bed and riparian areas of watercourses and possibly wetlands in the Marlborough Sounds under regulation 47(2)(b) of the NES-F.	10 years
S.13	River or Surface Bed Activity	To maintain structures within, and within 8 metres of, the bed of a watercourse.	35 years
S.13	River or Surface Bed Activity	To occupy the bed of a watercourse with a structure(s).	35 years
S.14	Water permit Divert Water	To temporarily divert water during construction relating to repairing the roads in the Marlborough Sounds.	10 years
S.14	Water permit Divert Water	To permanently divert water in small Sounds streams to enable the repair of the roads in the Marlborough Sounds.	35 years

S.15	Discharge Permit - To Water	To discharge sediment laden water/stormwater to surface water bodies during construction.	10 years
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2. A detailed description of the activities to which the application relates is:

To consent retrospective recovery works with ongoing effects and apply for proposed recovery works associated with the repair and reinstatement of the Port Underwood Road and side roads in response to the August 2022 storm event. For a full description of works, refer to Section 3 (Proposal) in the attached resource consent application.

3. The site, names and addresses of the owners of the land to which the application relates are as follows:

The road network between Waitohi (Picton) and Rarangi including but not limited to Port Underwood Road, Tumbledown Bay Road, and subsidiary side roads. The land upon which works are proposed consists of legal road, conservation land and private land adjoining the road corridor. Refer to Section 2 of the attached resource consent application which delineates the extent of the area covered.

4. Additional resource consents required in relation to the proposal:

No other consents are required in relation to this proposal.

5. Attached is an assessment of the proposed activity's effect on the environment that –

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

6. Attached is an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.

7. Attached is an assessment of the proposed activity against any relevant provisions of a document referred to in Section 104(1)(b) of the Resource Management Act 1991, including the information required by clause 2(2) of Schedule 4 of that Act.

8. No other information is required to be included in the application by the regional plan, the Resource Management Act 1991 or any regulations made under the Act.


 Steve Murrin

Marlborough Roads Manager

Date: 12.04.23

Address for Service:	Address for Invoicing
C/- WSP New Zealand Limited 19 Henry Street Blenheim 7012 Attn: Alan Anderson Ph: +64 27 241 6385 Email: alan.anderson@wsp.com	Marlborough District Council (Marlborough Roads) Attn: Steve Murrin PO Box 1031 Blenheim 7240 Email: steve.murrin@nzta.govt.nz

Annexures:

A description and Assessment of Environmental Effects in accordance with section 88 of, and the Fourth Schedule to, the Resource Management Act 1991.

1 Introduction

1.1 Purpose of this document

This document comprises an application to the Marlborough District Council (the Council) for resource consents under Section 88 and Schedule 4 of the Resource Management Act 1991 (**RMA**).

This document includes an Assessment of Effects on the Environment (**AEE**) on behalf of the Marlborough Road Recovery Team (**MRRT**) to support the application to authorise the works to repair road damage and multiple slip sites along Port Underwood Road, in the Marlborough Sounds.

1.2 Background

A major storm event on 19 August 2022 caused widespread flooding and road damage across the Marlborough region. This storm resulted in land slips, road dropouts, fallen trees and structural damage to road assets on numerous roads in the Marlborough Sounds, Awatere Valley, and Wairau Valley. This weather event follows another significant adverse weather event which occurred in July 2021, which also resulted in extensive damage across the road network. Repair work associated with damage from the July 2021 event is currently in progress.

The damage sustained to Marlborough Sounds' roads by the August 2022 weather event was substantial, with over twice the scale of damage than the 2021 storm. Over 670km of Marlborough roads received damage in the latest storm, with over 4,000 faults recorded.

Sections of these roads and side roads became impassable and unsafe for road users which left a number of local residents stranded, without the ability to leave their properties for essential supplies and services. In response, a Civil State of Emergency was declared to allow emergency works to be undertaken to have the road network open again with restrictions and traffic management in place.

MRRT recorded 4259 faults (areas of damage affecting road networks and associated assets) from the August storm event in the Marlborough Region. This is almost triple the number from the previous storm event that occurred in July 2021. The faults generally comprise of overslips onto roads, underslips below roads, cracks in the roads, culvert issues such as failures, road and bridge scour resulting in danger to the public.

Emergency works under provision of Section 330B of the RMA have been undertaken since August 2022 to repair, remediate and restore as many faults as possible along the roading network to restore it. Section 330B provides for emergency works under the Civil Defence Emergency Management Act 2002 (CDEMA). A number of faults characterised as simple, or minor have been resolved during the CDEMA Local Transition Period. The unresolved faults within the Port Underwood Road area are the focus of this application.

Of the 4259 faults identified, 105 are identified as “complex” faults. Complex faults are generally considered sites where the reinstatement requires specialist engineering, geotechnical and stormwater management expertise to resolve. Where faults have been complex and require geotechnical or engineered design fixes, they have been temporarily stabilised while a permanent solution is designed. Given their nature, more detail on each complex fault within the Port Underwood Road area has been provided within this application.

In order to provide for the continuation of repair works following the end of the CDEMA Local Transition Period, consent is required from Marlborough District Council so that MRRT can continue to repair the faults along the roading network and undertake permanent repair solutions at the more complex sites.

To manage the extent of the repair sites, MRRT have split up the Marlborough Region into seven priority areas. This application is for the works requiring regional or district resource consent associated with the construction and permanent repair to the roads and the various land slips and culverts within the defined Port Underwood zone.

Consents are sought for the following activities under the RMA provisions listed:

Section 9, Land Use – Land Disturbance:

To undertake excavation and filling to facilitate road network repair works and stabilisation of adjoining land

Section 9, Land Use – Activity:

To undertake indigenous vegetation removal for site access and for stabilisation of slips

To place structures (retaining and stabilisation) with 8m of watercourses

Section 12, Coastal Permit:

Disturb the land adjacent to the foreshore that potentially results in the deposit of material on the foreshore and seabed

Section 13 and NES-F, Land Use – River Surface or Bed Activities:

To replace and repair stream crossings and associated road protection structures

To install culverts that in some instances do not meet Regulation 70(1) of the NES-F

To disturb the bed and riparian areas of watercourses and possibly wetlands in the Marlborough Sounds under regulation 47(2)(b) of the NES-F.

To occupy the bed of watercourse with structures

To undertake maintenance of structures in waterways

Section 14, Water Permit – Divert Water:

To divert water during construction and long-term diversion as a result of installing stream and erosion protection structures

Section 15, Discharge Permit – To Water: To discharge sediment laden water/stormwater to surface water bodies

1.3 Emergency works provisions

This application seeks to encompass consents required to address effects considered to be 'ongoing effects' under section 330B of the RMA. Section 330B of the RMA provides for emergency works under the Civil Defence Emergency Management Act 2002 (CDEMA) to take place during a State of Emergency declared or Local Transition Period notified. The provisions of Sections 9, 12, 13, 14, and 15 of the RMA do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or mitigate any actual or adverse effect of, the emergency.

As a result of the July 2021 and August 2022 weather events, multiple locations along the roading network were damaged. Without remediation, there was significant risk to infrastructure, and works had to be undertaken as a matter of urgency. Any ongoing effects are anticipated to be similar in nature to the proposed activities to remediate the roading network and have been assessed concurrently.

Section 330B of the RMA states that:

If any activity is undertaken by any person exercising emergency powers during a state of emergency declared, or transition period notified, under the Civil Defence Emergency Management Act 2002, the provisions of sections 9, 12, 13, 14, and 15 do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or mitigate any actual or adverse effect of, the emergency.

If an activity is undertaken to which subsection (1) applies, the person who authorised the activity must advise the appropriate consent authority, within 7 days, that the activity has been undertaken.

If such an activity, but for this section, would contravene any of sections 9, 12, 13, 14, and 15 and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity, within 60 working days of the notification under subsection (2).

If the application is made within the time stated in subsection (3), the activity may continue until the application for a resource consent and any appeals have been finally determined

The works undertaken to date to remediate the road and permanently and temporarily fix fault sites are considered emergency works. They were undertaken in accordance with Section 330B of the RMA during the Local Transition Period. The Marlborough District Council Compliance team were given written notice of the works immediately following the August 2022 event.

With respect to the emergency works, this resource consent application seeks authorisation for those aspects of the emergency works which have ongoing effects. The ongoing adverse effects arising from the emergency works are considered to include new structures/culverts in a waterway and permanent diversion arising from the installation of rock protection.

2 Environmental Setting

2.1 Site Locality

The Marlborough Region is located on the northeast of the South Island of New Zealand. It covers a land area of 1,049,128 hectares and contains approximately 1,893 kilometres of coastline.

Marlborough has an extensive rural roading network which is a regionally significant resource to be managed. The main network roads that were impacted by the July 2021 and August 2022 storm events are Kenepuru Road, Queen Charlotte Drive, Kaiuma Bay Road, French Pass and Croisilles Road, Awatere Valley Road, Northbank Road and Port Underwood Road (as shown in **Figure 2-1** below).

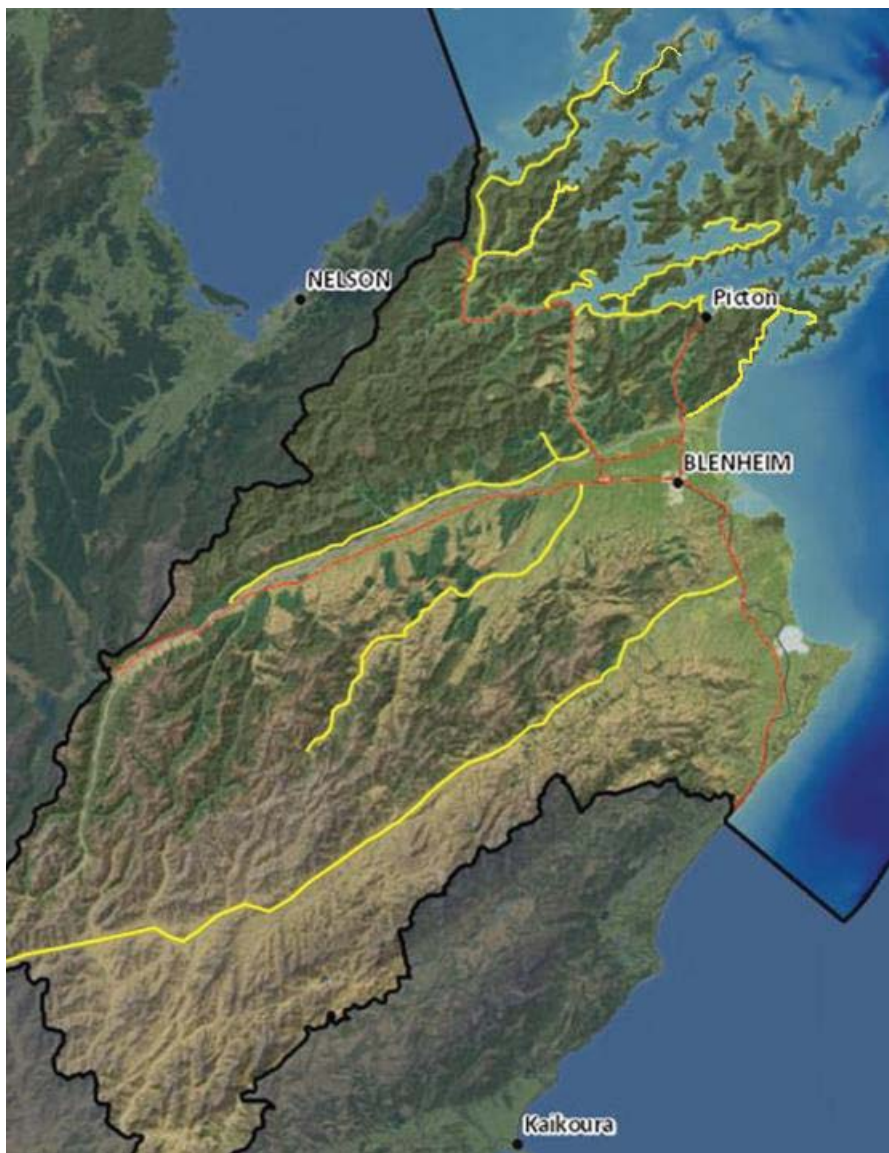


Figure 2-1: Main local roads damaged by the July 2021 and August 2022 storm event in Marlborough.

There are 4259 recorded faults from the August 2022 storm event, which are largely located on these main network roads and connecting roads. Faults can include underslips, overslips, scouring, loose debris, road cracking, blocked culverts, and structural damage (damage to road barriers, retaining walls, bridges, culverts).

As mentioned previously, to manage the extent of the repair sites, MRRT have split up the Marlborough region into seven priority areas. The subject site is the Port Underwood zone which is described further below.

2.2 Site Description

The Port Underwood Road zone covers the area surrounding Port Underwood. This includes sections of the road network between Waitohi (Picton), Rarangi, and Tumbledown Bay. The land upon which works are proposed consists of legal road, conservation land and private land adjoining the road corridor. The extent of this zone is shown in **Figure 2-2** below, which highlights the roads within the zone affected by the August 2022 event.

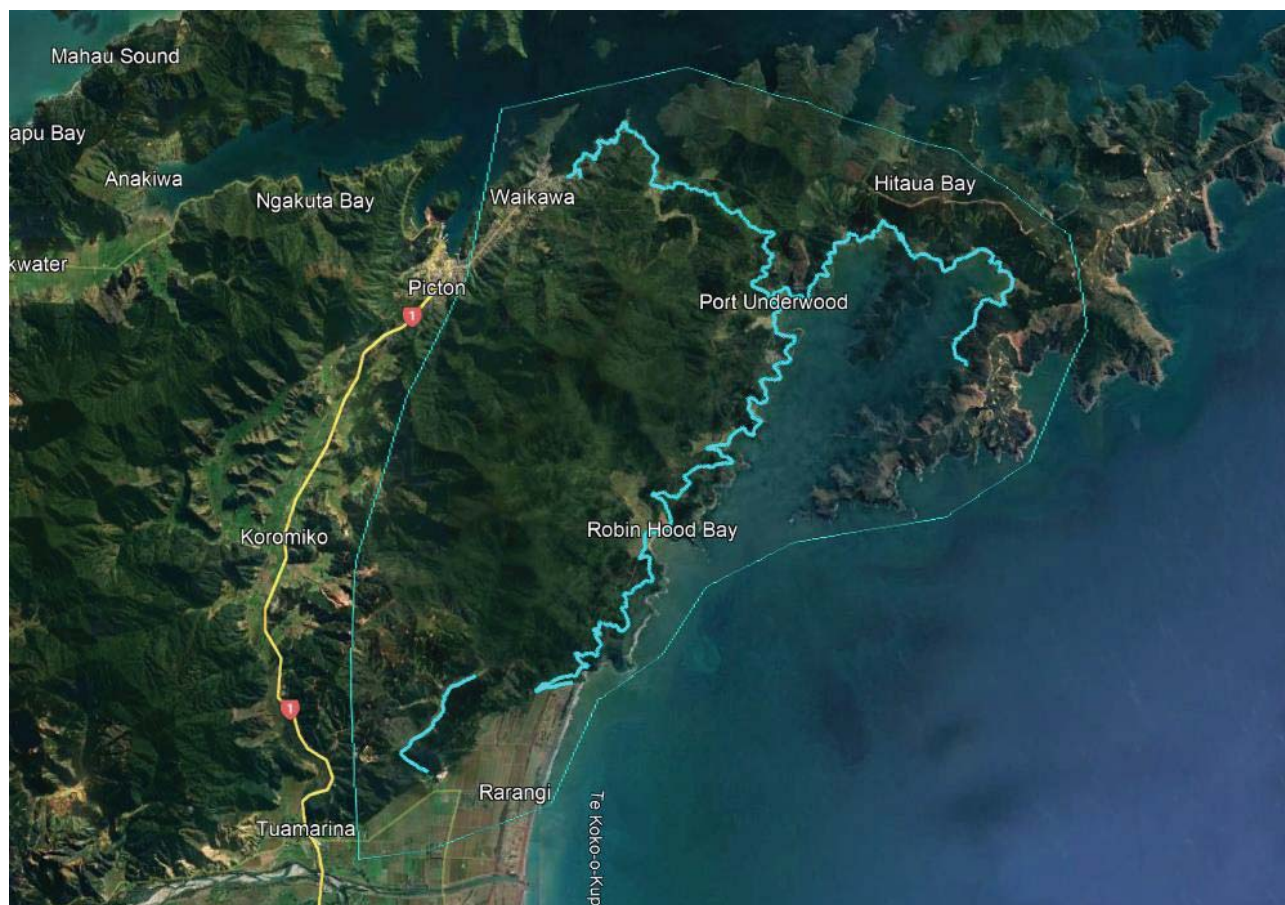


Figure 2-2: Indicative extent of the Port Underwood zone outlined in blue. The extent of the roads with faults within the Port Underwood zone are also shown in light blue. (Source: Google Earth).

As a result of the August 2022 weather event, 337 faults and hazards have been recorded within the Port Underwood Road section of the project, all of which have various degrees of failure along the roading network. Of the 337 faults, 290 have been completely resolved. These include overslips and underslips, scouring, loose debris, structural damage, as well as various culvert failures such as breaks, displacement and blockages. From the database of registered faults, underslips appear to be the most prominent type of complex fault.

Of the 337 faults, 21 have been identified as being complex, requiring geotechnical or engineered design solutions.

The majority of the faults are located along Port Underwood Road, which extends 33 kilometres between the town of Waikawa, to Port Underwood and Rarangi Beach, as well as Tumbledown Bay Road which extends approximately 16km from Hakahaka Bay to Jerdans Bay.

Figure 2-3 below shows the location of the faults within the Port Underwood zone.

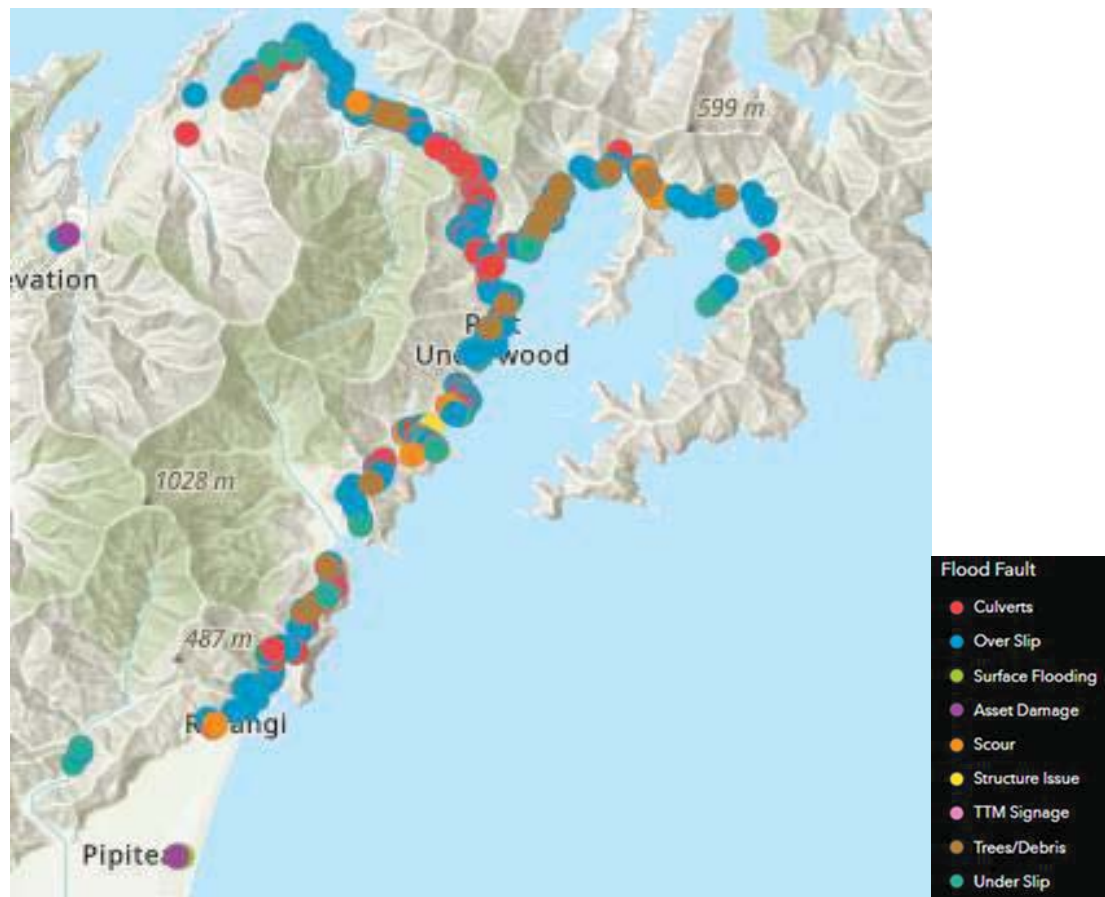


Figure 2-3: Faults identified within the Port Underwood zone (Source: Marlborough Flood Damage Dashboard)

2.2.1 Landscape and Geology

This zone is located along the eastern side of Marlborough, in the area adjacent to Te Whanganui/Port Underwood.

The Marlborough Sounds presents a unique combination of landforms formed by drowned river valleys, resulting in a highly fractured coastline with numerous offshore islands. This area comprises of very steep to moderately steep dissected coastal hills and a mixture of vegetated and cleared mountain slopes. Some parts of the Marlborough Sounds are modified through agricultural, forestry, and residential land uses, and aquaculture activities in the coastal marine area.

The geology of Marlborough reflects the dynamic processes over some 200 to 300 million years of constant geomorphological folding, drowning, tilting and erosion. Marlborough straddles the boundary between the Pacific and Australian plates, where the Pacific Plate is slowly moving under the Australian Plate creating continental collision. This transition zone created the uplift associated with the Southern Alps and other ranges within the South Island.

The Marlborough geology comprises predominantly of sandstone and mudstone (collectively known as greywacke). Sedimentary rocks of sandstone and siltstone occupy the majority of the Sounds and Richmond Ranges. Over time, alluvial deposits by glacial activity and river erosion have added sandy gravels to many of the bays and coves of the Marlborough Sounds.¹

¹ MRRT Erosion and Sediment Control Plan – attached as **Appendix D**

2.2.2 Ecology and Hydrology

The Port Underwood Road zone is within the Marlborough Sounds, which is located within the Marlborough Region. The Marlborough Sounds area is characterised by a moister climate and steeper terrain and was less modified by human arrival than the rest of the Marlborough Region. A significant amount of original forest cover remains, and native regeneration is well underway on land cleared for pastoral farming from 1850 to 1940. Forest birds like tui, bellbird, weka and kereru are common, and a number of freshwater fish and native snails and frogs are still present. The Department of Conservation has a strong presence in the Marlborough Sounds and a number of islands are used for conservation projects to protect threatened species.

The physical character of the Marlborough Sounds, particularly its steep topography and huge length of coastline, has created a great diversity of landforms and habitats, both coastal and terrestrial. This is then reflected in the variety of ecological communities and species present in the Sounds, including many that are unique. Generally, the land in the Sounds planning area is steep. On land the indigenous vegetation (mainly beech forest) is very important in its own right, because it contains a number of endemic and/or rare plants and animals, and generally as it provides a habitat for important indigenous fauna. The Marlborough Sounds are home to a great variety of indigenous fauna including some uncommon or rare native forest birds such as the kaka and the falcon.²

The Marlborough Sounds is comprised of many, often steep and ephemeral freshwater streams that flow down through the bushland directly to the ocean (**Figure 2-4**). Some of the larger and lower-gradient watercourses support native fish movement from the marine environment for spawning and habitat purposes. The permanently flowing watercourses that are supported by springs provide water supply for permanent and temporary (vacation) dwellings in the Sounds.

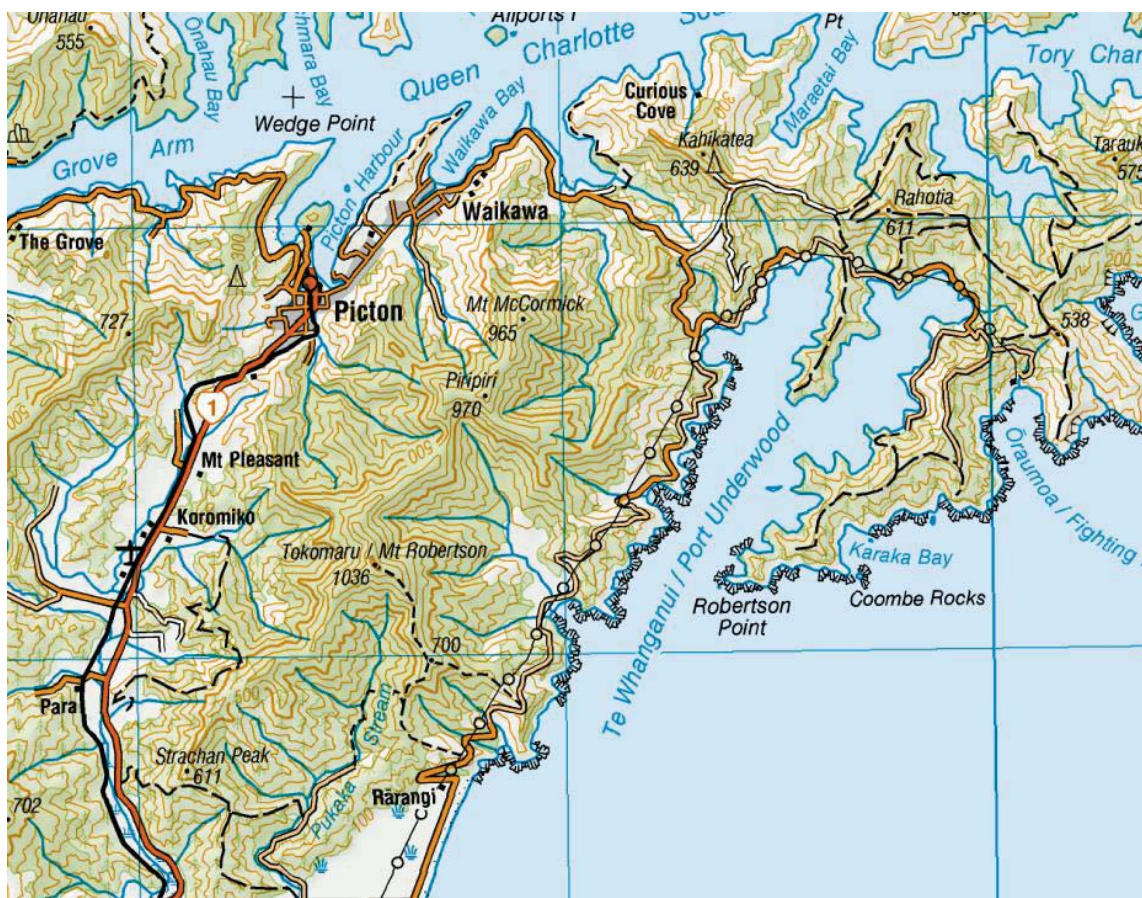


Figure 2-4: Watercourses in the Port Underwood Road zone (Source: NZ Topo Map)

The temperate coastal environment of the Sounds provides for significantly higher rainfall volumes than those seen in the lower reaches of Marlborough to the South and short, sharp rain showers are a common occurrence, with many drainage channels present throughout the Sounds, both natural and manmade, to support the run-off from infrastructure.

The majority of the Port Underwood zone falls within Water Resource Units 56, Small Coastal Catchment. However, some parts of the zone fall within Water Resource Unit 57, Small Sounds Streams. The values associated with these catchments are as follows in **Table 2-1**:

Table 2-1: Water Resource Unit Values and Classifications

Water Resource Unit	Values	Water Quality Classifications
56 Small Coastal Complex	Fish Habitat - banded kokopu, giant kokopu, koaro, īnanga, dwarf galaxias, common bully, bluegill bully, redfin bully, lamprey, longfin eel and shortfin eel habitat.	Aquatic ecosystem, fish spawning.
57 Small Sounds Streams	<p>Fish Habitat- banded kokopu, giant kokopu, koaro, īnanga, shortjaw kokopu, dwarf galaxias, common bully, bluegill bully, redfin bully, giant bully, upland bully, torrentfish, common smelt, lamprey, longfin eel and shortfin eel habitat.</p> <p>Bird Habitat - weka habitat in riparian margins.</p> <p>Riparian Habitat - Indigenous riparian vegetation.</p> <p>Recreation - children playing.</p>	Aquatic ecosystem, fish spawning.

The Port Underwood zone is primarily situated in the Sounds Ecological District under the PMEP, but also overlaps the Para Ecological District (with a smaller number of faults recorded in this Ecological District), Blenheim Ecological District and Cook Strait Ecological District (however, no faults are located within this district). Appendix 3 of PMEP defines an Ecological District as a local part of New Zealand where the topographical, geological, climatic, soils and biological features produce a characteristic landscape and range of biological communities. **Figure 2-5** shows the Port Underwood zonal consent area, and fault locations alongside the Ecological District boundaries.

The Sounds Ecological District is home to a diverse range of species, including native fish, bird, and animal species. Threatened species present in the Sounds Ecological District may include the New Zealand Falcon, marsh crake, kereru and South Island kaka³.

³

https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Environment/Biodiversity/SNA%20North%20Marlborough%20List/D_SNA_Project_Report_Pages_34-45_Sounds_Ecological_District.pdf

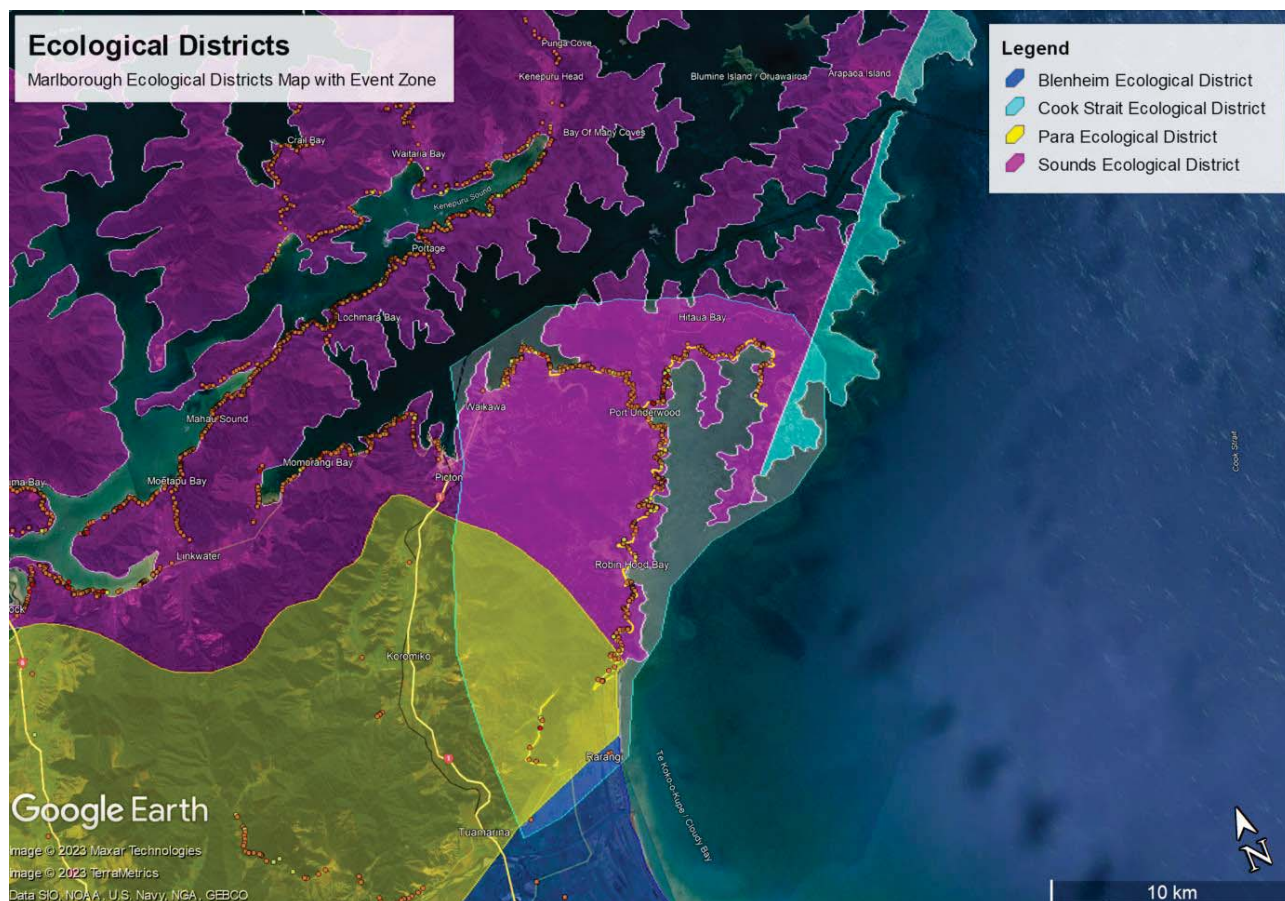


Figure 2-5: Ecological District Map for Port Underwood.

2.2.3 Archaeological Sites

As the area is associated with pre-1900 occupation and use, a desktop archaeological assessment has been undertaken. Fault sites were cross referenced using a 200m buffer with recorded archaeological sites. Within the Port Underwood Zone, there were 35 faults identified as being within 200 metres of an archaeological site, at 13 different locations. These locations were investigated in further detail in the in the Archaeological Assessment attached as **Appendix J**.

Appendix J includes the location of fault sites in relation to archaeological sites. Due to the high number of faults in the Port Underwood Zone within a 200m proximity of a recorded archaeological site these images are not repeated in this section. Instead, Table 2-1 sets out the faults within 200m of an archaeological site in the Port Underwood Zone. The table provides an overview of the risk of encountering archaeological sites, and the proposed archaeological risk management recommendations. For the majority of sites listed in Table 2-1 the proposed recommendations are to undertake additional archaeological assessment for ground disturbing works, with potential archaeological authority needed in some locations. A site visit for ground disturbing works is also recommended for several fault sites.

A copy of the Archaeological Assessment was provided to Iwi groups for comment. Any further iwi response to the Archaeological Assessment will be provided to Council.

Table 2-2: Faults within 200m of Archaeological Sites in the Port Underwood Zone

Fault IDs	Location Reference	Fault Types	Archaeological site type within or in proximity to project footprint	Proposed Archaeological Risk Management Recommendation
PIC-712-22410	Port Underwood Road -41.3334784422, 174.097781584	Scour around upstream bridge	Whaling station with charcoal, bricks, stone mounds, whale oil. Māori occupation (argillite drill point and stone chisel)	Archaeological Assessment for any ground disturbing works ADP for non-ground disturbing works and clearing of slip material.
PIC-712-20370, PIC-712-20640, PIC-712-20684 and PIC-712-20686	Port Underwood Road -41.3259604076, 174.105414331	Overslips and Block Culvert Requiring Clearing (PIC-712-20684)	Whaling station with tryworks, trypot, historic building, historic fruit trees. Māori occupation (burials)	Archaeological Assessment for any ground disturbing works ADP for non-ground disturbing works and clearing of slip material.
PIC-712-18904, PIC-712-18911, PIC-712-18929 and PIC-712-18925	Port Underwood Road -41.3207807954, 174.109897553	Overslips, Underslip, loss of road shoulder.	Māori occupation (midden/oven)	Archaeological Assessment for any ground disturbing works ADP for non-ground disturbing works and clearing of slip material.
PIC-712-13902 (complete) and PIC-712-14011 (complete)	Port Underwood Road -41.2992854999, 174.113292902	Overslip, road scour, blocked drain.	Māori occupation (worked stone, stone flakes, midden, oven)	NA - Archaeological review for any future ground disturbing works
PIC-641-357 and PIC-641-326	Port Underwood Road		Māori occupation (Pits/terraces)	Archaeological Assessment for any ground disturbing works ADP for non-ground

	-41.2692894789, 174.078319317			disturbing works and clearing of slip material.
PIC-712-1624, PIC-712-1645, PIC-712-1688 (complete), PIC-712-1900 (complete), PIC-712-1932, PIC-712-2336 (complete), PIC-712-2395 and PIC-712-2404	Port Underwood Road -41.2596543525, 174.055293009	Underslip, slump, overslip, culvert issue	Māori occupation (Middens, ovens, pits, terraces) and notable tree	Archaeological Assessment recommended prior to erosion protection. ADP for material removal from property.
PIC-69-4338	Waikawa Road -41.2682282227, 174.045565899	Tree/debris	Māori occupation (Pits) and notable tree	Accidental Discovery Protocol
PIC-788-5620 (complete)	Tumbledown Bay Road -41.283897188, 174.140600311	Overslip	Māori occupation (Pa)	NA - Archaeological review for any future ground disturbing works
PIC-788-6404 (complete) and PIC-788-06418 (complete)	Tumbledown Bay Road -41.2816439323, 174.145752168	Overslips	Māori occupation (pits, terraces, midden, oven) Historic house site, drains	NA - Archaeological review for any future ground disturbing works
PIC-788-8766 (complete), PIC-788-8782 and PIC-788-9021	Tumbledown Bay Road -41.2875803646, 174.15746829	Overslips, scour.	Māori occupation (midden, oven) Burial site/cemetery with iron fence	Archaeological Assessment for any ground disturbing works ADP for non-ground disturbing works and clearing of slip material.


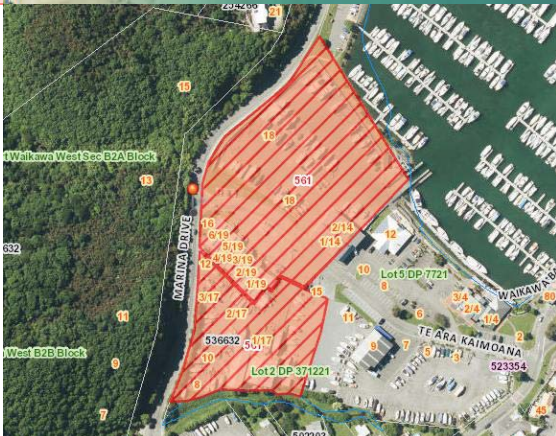
PIC-788-12483, PIC-788-12487, PIC-788-12500, PIC-788-12521 and PIC-788-12551 (all complete)	Tumbledown Bay Road -41.2903316484, 174.186177127	Overslips,tree/debris issues.	Māori occupation (pits, terraces)	NA - Archaeological review for any future ground disturbing works
PIC-788-13826	Tumbledown Bay Road -41.2976332261, 174.18701646	Culvert issues.	Māori occupation (pits, terraces, midden, oven, ovenstones)	Archaeological Assessment for ground disturbing works.
PIC-788-16051 (complete)	Tumbledown Bay Road -41.3064312322, 174.174569329	Overslip.	Māori occupation (pits, terraces, midden)	NAArchaeological review for any future ground disturbing works

2.2.4 *Contaminated Land*

While there are a number of sites within the Port Underwood zone that are identified as HAIL sites (Hazardous Industries and Activities List) in the Marlborough District Council GIS Smart Map system, not all of these have the potential to be affected by repair works, as not all sites are located near the road network.

According to the Marlborough District Council GIS Smart Map, there are two HAIL sites (Hazardous Industries and Activities List) within the Port Underwood zone that have the potential to be affected by the repair works, according to the listed faults. These are described in **Table 2-2** and shown in **Figure 2-6** below.

Table 2-3: Hail sites near faults in the Port Underwood Zone

Site Reference ⁴	Fault IDs affected	Fault Type	Image	Street Address	Legal Description	HAIL Description
140	PIC-712-14161, PIC-794-1956	Minor overslip and minor culvert issue		Oyster Bay, Te Whanganui/Port Underwood	Section 27 Block XII	Chemical and fuel storage, and service stations including retail or commercial refuelling facilities.
561	PIC-845-296	Minor overslip		Marina Drive, Waikawa	Lot 5 DP 7721	Chemical and fuel storage, and service stations including retail or commercial refuelling facilities.

Note that the above information has been taken from Council's property file records for each HAIL site on each property. There are other HAIL sites within the Port Underwood zone, however there are no recorded faults near those other HAIL sites.

While these are included for completeness, it is considered that the works associated with the above Fault IDs are unlikely to affect the HAIL sites in question. No further considerations with respect to HAIL are included in this application.

⁴ Marlborough District Council GIS Smart Map

2.2.5 Land Ownership

The faults are generally located within the legal road boundary. However, given the extent of the faults along the roading network, in some places the proposed repair works may extend onto private property.

Where possible works on private land will be minimised, however they may not be able to be avoided in all instances. Access agreements and land acquisition will be obtained as necessary and assessed on a site-by-site basis.

It is anticipated that this application will be publicly notified (refer to Section 9 of this report).

2.2.6 Conservation Land

The project envelope intercepts various parcels of land administered by the Department of Conservation (DOC), generally comprising of conservation land within the Sounds and Sounds Foreshore Reserve land. **Figure 2-6** shows DOC land in the Port Underwood Zone, it can be seen that conservation land is located along the coastline, at the Sounds Foreshore Reserve. The data used to produce this figure is sourced from the DOC Open Spatial Data Portal.

Permission is likely to be required to access the conservation land and carry out the works if faults extend to these conservation areas. The applicant will consult with DOC prior to works commencing.

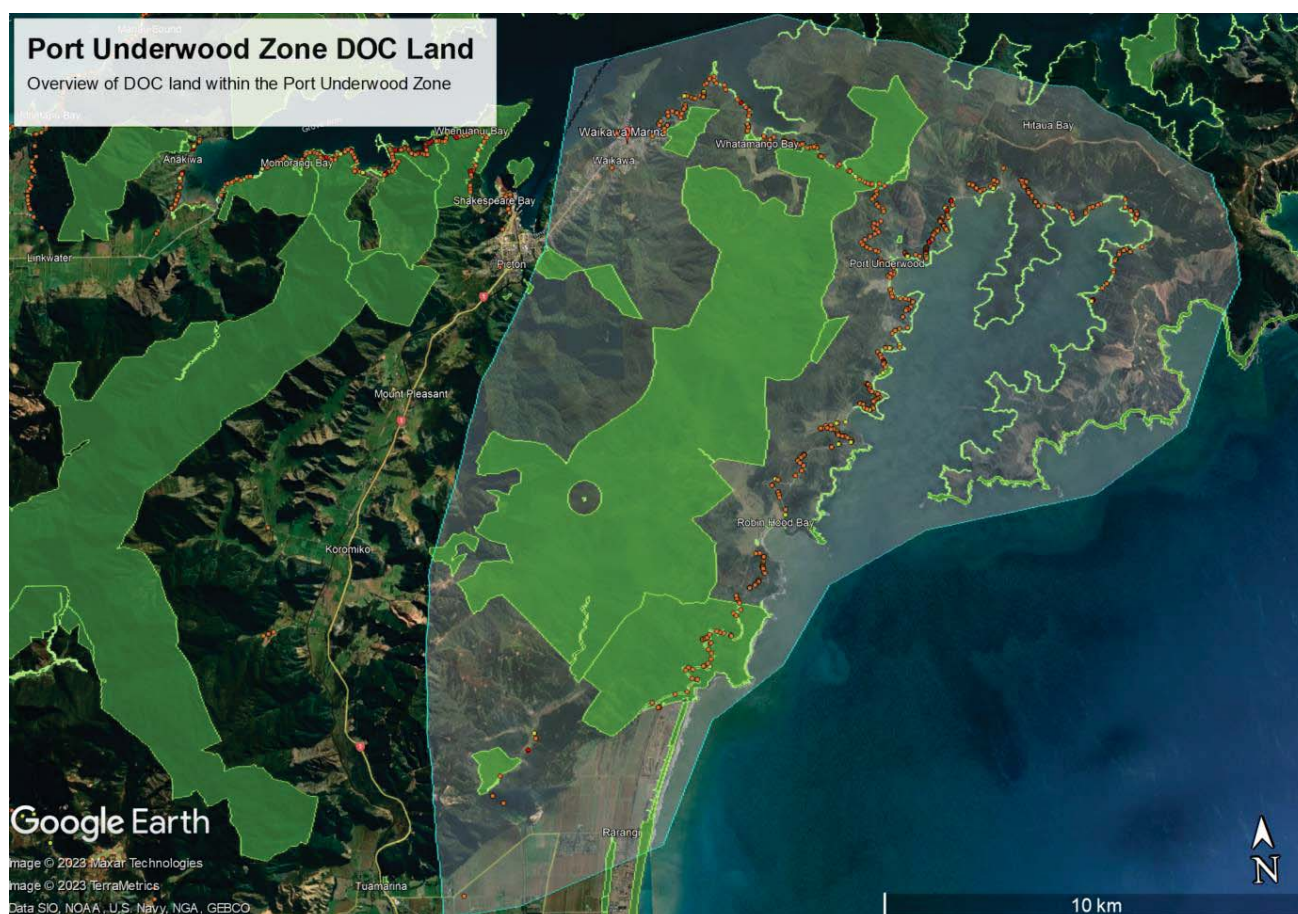


Figure 2-6: DOC Land Port Underwood Zone (Green Overlay) with Fault Sites.

3 Proposal

There are a number of faults still to be rectified to return the roading network to the functionality that was present before the August storm event.

Marlborough Roads Recovery Team (**MRRT**) proposes to continue to repair the roads in the Port Underwood zone.

The repair works will be carried out in accordance with the following documents:

- Generic Geotechnical Engineered Design Plans / Solutions are attached as **Appendix A**.
- Environmental and Social Management Plan (**ESMP**) attached as **Appendix C**.
- Erosion and Sediment Control Plan (**ESCP**) attached as **Appendix D**.

As discussed in the introduction there were 4259 faults identified throughout the roading network in Marlborough resulting from the August 2022 weather event. Of the identified faults, more detail has been provided on those that are considered 'complex', which are generally sites where the reinstatement requires specialist engineering, geotechnical and stormwater management expertise to resolve them.

The purpose of the Fault Assessment Sheets (attached as **Appendix B**) is to provide Council with an understanding of the most complex sites where design fixes are proposed. The approach taken is to assess effects and prepare mitigation measures for a selection of the complex fault sites and adapt and roll these management practices out across other similar faults or as yet un-remediated minor and simple faults within the Port Underwood zone.

It is considered that given the scale of the faults along the network a zonal approach to consenting would be the most practical option to capture and manage the works in accordance with best practices, appropriate conditions and in a sustainable manner. A meeting was held with the Council on 16 March 2022 to confirm that a zonal approach to consenting would be acceptable for consenting the works required following the July 2021 event. 5 Zonal consents were accepted by Council for processing. As such, a similar zone-based consenting approach has been adopted for the planning matters associated with the August 2022 event.

It must be emphasised that there are many activities necessary to repair a roading network. This zonal application seeks to encompass anticipated activities as well as those that are unforeseen and ancillary to the main activities.

Sections 3.1 to 3.7 below detail works that are common activities to repair and remediate faults (areas of damage affecting road networks and associated assets).

A suite of consents is requested to be granted through this approach that can be applied to the varying circumstances to enable the damaged network to be efficiently and effectively repaired by the roading authority.

Consent is also sought to address any effects considered to be 'ongoing effects' under section 330B of the RMA. This relates to emergency works undertaken during the State of Emergency and Local Transition Period notified under the CDEMA. As a result of the event, multiple locations along the network were damaged, with damage, or risk of damage, to infrastructure occurring. Without remediation being undertaken, there was a significant risk to the integrity of the network and works had to be undertaken as a matter of urgency. S330(B) 3 requires that:

If such an activity, but for this section, would contravene any of sections 9, 12, 13, 14, and 15 and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate consent authority for any necessary

resource consents required in respect of the activity, within 60 working days of the notification under subsection (2).

Any ongoing effects are anticipated to be similar in nature to the proposed activities and have been assessed concurrently.

3.1 Road maintenance

MRRT propose to continue to undertake general road maintenance activities in the Port Underwood zone to ensure that the road is safe and efficient for road users.

The August 2022 storm event caused considerable damage to the surfaces of roads within the Port Underwood zone, and also left significant volumes of debris in the road corridor. The following activities are required as part of the storm recovery works:

- Road surfacing and marking
- Repair damaged roadside barriers
- Removal of debris/vegetation on the road
- Repair potholes
- Re-levelling cracked/slumped road

It is noted that many of the above activities have also been carried out as emergency works during the Local Transition Period to enable the reopening of the road network - with restrictions and traffic management in place.

3.2 Slope stabilisation

A number of slips (overslips and underslips) have occurred from the storm event which has resulted in debris on the road and unstable roadside faces.

Many of the slip sites have been temporarily remediated, and loose debris/soil has been removed in the interim. The works described below have been undertaken within the Port Underwood zone, to permanently stabilise the site. Figure 3-1 shows a typical example of slope clearance works.



Figure 3-1: Slip site on Port Underwood Road prior to and following clearance

3.2.1 Pinned mesh-wall

Mesh-walls are a measure used to stabilise a slope, as it is effective for erosion protection, and it allows vegetation to establish through it.

There are different types of mesh-wall designs which may be used (i.e., Macmat-R (black and metal mesh combos)), however works will indicatively follow the construction methodology below:

- Trim back the slip and removal of loose soil
- Installation of soil nails at top of slope, to provide anchors for the mesh matting
- Install additional nails, to provide slope stabilisation
- Drape the mesh matting across the slip face
- Connect mesh matting to the soil nails and install faceplates

3.2.2 Hydro-seeding

Another method undertaken to stabilise slopes including those within the Port Underwood zone is hydro-seeding. Hydro-seeding is the application of blended ingredients (such as mulch, grass seed, fertiliser and wood fibre), to immediately protect an exposed surface.

MRRT have been working with the Department of Conservation (namely Phillip Clerke and Rowan Hindermarch-Walls, Biodiversity Supervisor, Wairau/South Marlborough District), in coming up with an application suitable for the Marlborough Sounds area.

The Department of Conservation has recommended the seeds in the mix to be eco-sourced where possible and comprise the following;

- Manuka
- Kanuka
- Coprosma Robusta

This is to take into account the native species in this area.

Figure 3-2 below shows the application of hydroseeding following benching to stabilise a slope above the road in the Queen Charlotte Drive zone (remediation following the July 2021 storm event). The same erosion treatment will be used, where suitable, for the Port Underwood zone.



Figure 3-2: Benching, battering and hydroseeding an overslip fault along Queen Charlotte Drive.

3.3 Culvert repair and reinstatement

A number of culverts within tributaries and ephemeral gullies beneath the Port Underwood Road, Tumbledown Bay Road, and subsidiary side roads were damaged, washed out, or caused the road to become impassable.

While the majority of culverts in the Port Underwood zone held up well during the course of the August 2022 weather event, a number of culverts required debris clearance during the Local Transition Period, using an excavator, and re-instatement of the water table flow path. This remediation was undertaken to prevent further damage to land and property. In cases where

further repairs were anticipated, or a complex design was needed, sites were temporarily remediated pending a detailed design incorporating the site-specific stream and stormwater characteristics of the site. In some instances, the extent of damage to a culvert structure may be unclear, and the removal of debris from the culvert may reveal further damage.

In such instances where further repair work, or culvert replacement is required, damaged structural elements such as rusted metal pipes will be removed and disposed of at an appropriate facility. Any replacement culverts will be either concrete precast or plastic pipe (for small roadside water tables). Culvert diameters will be sized to the catchment, with pipe diameters less than 300mm avoided. Culvert diameters will either be the same or larger than the existing culverts. Specific stormwater engineering will be inputted into culvert design in many instances to manage flood risk.

Water flow will be excluded from the worksite by diverting the water around it for a short period. This will generally require a dam in the watercourse bed upstream of the site and then pumping water through a pipe to a stable area downstream. Other forms of diversion may also occur, but this will be the most common method. Once the culvert and ancillary structures are complete, flow will be restored through the new structure.

Once the culvert is removed and the new gradient checked, the pipe will be installed and then the inlets and outlets stabilised. Avoiding erosion downstream of the culvert is also a consideration for design outcomes. Ideally replacement culverts will be installed to have minimal fall height and avoid perched outlets to prevent erosion. Structures used to stabilise works sites, such as gabion baskets, will need to be carefully placed to prevent further erosion.

Disturbance of the beds of watercourses and drainage pathways will be associated with these activities. However, this will only occur for a limited time during construction.

Consent is sought for ongoing maintenance of these structures to maintain their ability to convey flows in the future, refer to Section 3.8.

In many instances, where practicable, suitable re-planting and remedial measures will also be employed to maintain the natural character of the surrounding local environment.

Improving fish passage where practical is a positive outcome sought by the applicant. However, installing fish passage in locations where it is not necessarily practical or achievable will accomplish little environmental results for the associated costs.

Attached as Appendix E is an assessment undertaken by Marlborough Roads Environmental Advisor Simon Smith. The Assessment outlines the locations of culverts or other structures in waterways in the Port Underwood zone, including those which were undamaged or only required debris clearance following the August 2022 event. The purpose of this assessment was to consider stream characteristics, catchment, and fish passage of provision by existing structures.

The larger watercourses in the zone were the main focus of this structures assessment as directed by Council's Environmental Scientist Peter Hamill. Each structure replaced will have a design that will be tailored to the specific circumstances. In general terms fish passage will be designed into the replacement culverts where the values associated with the watercourse are assessed to be moderate to high. Characteristics of the higher value watercourses as discussed with Peter Hamill are:

- The watercourse potentially supports a population of endemic fish species.
- Potential to support fish spawning habitat is present as reviewed under the MPI Fish Spawning Indicator tool.
- The ecological intactness of the upstream area.
- Native plant and watercourse values present as opposed to introduced species such as pine trees.

- Where the structure is located in the overall catchment, for example if the culvert were in the lower catchment area (i.e., nearer the coast) and substantial habitat exists above the site.

Where the environmental values are assessed as low then a replacement culvert will be installed to match the outlet conditions that existed previously.



Figure 3-3: Culvert repair works on Croisilles-French Pass Road. (Source: Marlborough Roads Recovery Updates). Similar works will be undertaken in the Port Underwood zone.

3.4 Stormwater discharge to water

The larger exposed land disturbance sites will be subject to natural erosion processes as the sites stabilise. The Marlborough Sounds has a high annual rainfall and during construction and stabilisation activities stormwater management requires careful consideration. To a large extent many of these issues will be addressed through the land use - land disturbance consent. However, a separate discharge permit to discharge to water is sought to avoid any ambiguity.

As noted previously many sites will be hydroseeded to aid initial stabilisation processes however during construction works stormwater discharge containing sediment may be impossible to avoid even with the best erosion and sediment controls in place. Consent to discharge sediment laden water to water is sought for these unavoidable instances during construction and whilst the sites settle. The works will be undertaken in accordance with the best practicable options as specified in the ESCP which is attached as **Appendix D**.

3.5 Water diversions

3.5.1 Short term diversion during construction

Where streams are flowing at the time of the works being undertaken, water will be excluded from the work sites by diverting it around the site for a short period (generally less than 10 days).

The methodology of diversions would firstly involve excavating into the bed upstream of the culvert, a small sump would be formed, and the flow pumped out of that through a suspended pipeline to the downstream end. This diversion outlet would be designed to avoid scour and erosion. Other forms of diversion may occur, but this will be the most common.

Fish recovery would occur from the larger channel beds following dewatering if required. In those instances, fish will be quickly returned to the creek upstream of the work site. Fish screens will be in place to prevent fish from entering the diversion pipe.

Once the works are complete any diversion structures would be removed, and the bed of the watercourse returned to pre-works conditions.

The use of machinery in the wetted channel would be minimised as much as possible.

3.5.2 Long term diversion

Given the scale of this project and the watercourses affected, it seems plausible that some permanent realignment of watercourses may occur as a result of new road protection structures and erosion protection. As a result, permanent watercourse diversion of original flow paths could occur. In many instances existing structures will be repaired and diversion over the long term is not likely.

3.5.3 Maintenance diversion

During maintenance activities in the future, diversion works as described above in Section 3.5.1 will be required to repair structures. For smaller scale maintenance activities, the same approaches are proposed particularly where diversions are likely to take less than one day.

Given the unknown timeline for completion of fault repairs within the zone, a 10-year duration for diversions during maintenance activities is sought.

3.6 Road retreat/realignment

Retreating the road into the adjacent shoulder is a solution proposed in certain locations depending on factors such as steepness, the stretch of damaged road, and if there are dwellings above/below the road.

Road realignments commonly involve vegetation removal, a significant volume of earthworks (likely undertaken in stages via benching), and the associated disposal of cut material at an appropriate disposal facility.

As road realignment works will likely extend onto private property, works may involve a land acquisition process.

Figure 3-4 below shows road repairs underway at a possible realignment site in the Port Underwood zone where there was severe road damage from the storm which presented the risk of the road falling away.



Figure 3-4: Road damage along Port Underwood Road. (Source: Marlborough Roads Recovery Updates)

3.7 Retaining walls

The August 2022 storm event resulted in a number of underslips within the Port Underwood zone, where in many places the road shoulder has fallen away. Retaining walls are proposed to be

constructed to repair the underslips where the road cannot be retreated into the adjacent road shoulder.

Underslip fault sites were classified into two categories: complex and simple. Repair solutions at complex sites are designed on a site-by-site basis where an intricate engineered solution (design and methodology) is required.

At simple sites, where a retained height is less than 2.5m the following generic retaining wall designs have been proposed to stabilise the road shoulder where an underslip has occurred.

- Soldier Pile Wall
- Pinned Shotcrete Wall
- Gabion/ Terramesh Wall
- Anchored Soldier Wall
- Soil Nailed Shotcrete Wall

A process was undertaken by engineers to determine which retaining wall solution is the most applicable. This 'Design Process Flowchart' to assist in selecting the best retaining wall design solution is included within **Appendix A**.

The proposed retaining wall design, dimensions and methodology will differ at each slip site, depending on the characteristics of the road shoulder failure and what is recommended by the geotechnical and structural engineers.

The works will indicatively follow the below generic retaining wall construction methodology:

- Site establishment, installation of traffic management and erosion and sediment control measures.
- Excavation of working bench below the road.
- Installation of piles through a driven pile methodology/ bored pile methodology.
- Construction of lagging.
- Placement of geotextile on ground surface.
- Installation of subsoil drains.
- Backfill the wall with free draining fill. For larger retained heights, anchors will be drilled through the wall.
- Install road barrier and reseal road surface on completion.

For more information, the generic designs for the walls are attached as **Appendix A**.

Figure 3-5 below shows the construction of a retaining wall along Queen Charlotte Drive following the July 2021 storm event.



Figure 3-5: Retaining wall construction along Queen Charlotte Drive. (Source: Marlborough Roads Recovery Updates)

3.8 Ongoing structure maintenance

The structures installed to repair / remediate the roads (such as retaining walls, mesh walls) and restore access will be monitored following the initial works to ensure that these structures are effective at preventing the risk to the roads and public safety. Many of the structures within the road corridor will not require consent for maintenance as such works will be covered by permitted activity provisions within the PMEP and MSRMP. However, some structures that do not meet the requirements for maintenance, for example certain works within waterways, require an ongoing consent for maintenance and/or any required additions to the road protection structures as needed for a duration of up to 35 years.

The maintenance proposed is for the structures/activities outlined above. Any maintenance/repair works would generally have the same or less magnitude of effects than the initial works. As the specific details of maintenance or additional protection works cannot be known at this stage, it is volunteered that a condition requiring maintenance works be in accordance with the ESMP and ESCP or any subsequent variations of these documents. This should ensure appropriate environmental controls are implemented during maintenance works.

3.9 Timing and duration

It is essential that works to repair the road continue to ensure the safety of road users. A number of emergency works have already been undertaken during the State of Emergency and the Local Transition Period to fix immediate safety concerns threatening the road.

It is intended that the works set out within this consent application will commence as soon as resource consent is granted, designs are finalised, and necessary consultation has been undertaken.

The construction works will be temporary in nature, with works at each site expected to take place in the order of weeks to months. The duration of works to be undertaken is dependent on resource availability and weather conditions.

The applicant requests a construction consent term of 10 years to avoid a situation where funding is not secured, and another application is required to be made. A consent duration of 35 years is requested for the occupation in a riverbed and, for any permanent diversion which is required to repair the road, as the effects of these activities should not change once they are in place. It is noted that a permanent diversion will be avoided if possible, however if a stream has moved place as a result of the July 2021 or August 2022 weather events it may need to be moved again to avoid further scouring to the road.

4 Mitigation Measures

There is an overarching Environmental and Social Management Plan (**ESMP**) for the project, which is attached as **Appendix C**. This document contains mitigation measures including an Accidental Discovery Protocol in section 3.2.2.1 of the ESMP.

An Erosion and Sediment Control Plan (**ESCP**) specific to the Port Underwood zone has been prepared by the Marlborough Roads Recovery Team (**MRRT**) for the storm recovery project works. The purpose of the ESCP is to set out management practices, and erosion and sediment controls that will be implemented during the works to minimise the release of sediment into surface water.

As per sections 5 and 6 of the ESCP, if deemed required, the following controls will be deployed on the work sites within the Port Underwood zone.

- Geotextiles (i.e, mats, covers, blankets)
- Silt fences and super silt fences
- Decanting Earth Bunds
- Stormwater inlet protection
- Stabilised entrances
- Silt socks

- Water diversions
- Water sprinklers
- Mulching
- Sediment retention ponds
- Soil binders

The ESCP sets out how each measure will be installed, operated, maintained, and monitored throughout the construction works. The consent holder, in conjunction with the Environmental Advisor and Site Supervisors will be responsible for the implementation and monitoring of these control measures.

Contingency measures and management practices are also proposed in the ESCP to minimise potential adverse effects on the receiving environment.

Mitigation strategies used to reduce the level of impact include avoiding unnecessary disturbances, reducing vegetation clearance activities, utilising best practice construction methodologies, and implementing appropriate site remediation. Mitigation measures employed will be similar to those used in the prior (July 2021 event) zonal consents previously submitted to Council. For these zonal consents a desktop terrestrial Ecological Impact Assessment was produced by an ecologist. While no desktop EIA has been produced for this project, additional guidelines have been included directly in the ESMP, based on applicable learnings from the July 2021 ecological assessment

Unlike for the July 2021 zonal applications, a Landscape Management Plan (LMP) was not prepared specifically to support the resource consent application in this instance. However, strategies providing guidance on techniques that can be utilised to address anticipated effects on landscape and visual amenity have been incorporated into the ESMP. These are based on strategies from the July 2021 event LMP which, due to the similarity in location of the July 2021 and August 2022 weather events - as well as the nature and scale of the damage which occurred - have significant relevance to the current project. Strategies incorporated into the ESMP including the generic recommendations relating to site rehabilitation, i.e., site preparation, topsoil re-use, plant selection procedures, planting programmes and maintenance/monitoring schedules, can be readily applied to this zone.

5 Consideration of Alternatives

Whilst determining the best course of action to deal with the effects of the storm event, other alternative measures were considered prior to deciding on the current proposal. These measures included:

- The ongoing use of temporary stabilisation measures
- Alternative geotechnical measures; and
- Do nothing/leave the site as is

The option of using temporary measures such as infilling or the use of geotextiles to provide temporary stability to the various slips and fault areas would provide enough stability and safety to make the roads useable, however in the long-term, these measures would be more susceptible to ongoing weathering effects and would require extensive ongoing maintenance to be effective. Given the large number of faults across the project area, ongoing maintenance of temporary stabilisation measures would prove to be costly and inefficient.

A wide range of geotechnical solutions will be used to carry out the road restoration works. These measures include pinned mesh-walls, gabion and concrete retaining walls, and carrying out cut and fill earthworks to recontour and stabilise slopes. These measures have been determined by suitably qualified engineers to be the most practical and efficient solutions for this project. A 'Design Process Flowchart' (**Appendix A**) will be used to determine the most applicable measure for each site. It is therefore considered that any solution used will be more appropriate than any other alternative.

A potential alternative to carrying out the remediation works is to leave the various faults and slips untouched. This alternative was not considered to be an option due to the risks to public safety presented by the faults along the network. Without the remediation works, the faults are likely to be exacerbated by ongoing erosion and future storm events, and the viability of the road would not be able to be maintained.

6 Activity Framework

6.1 Overview

Council has three unitary plans that apply to the area, the operative Marlborough Sounds Resource Management Plan (MSRMP), the operative Wairau/Awatere Resource Management Plan (WARMP), and the Proposed Marlborough Environment Plan (PMEP).

The MSRMP and WARMP are combined plans containing the regional, regional coastal and district plans in Marlborough. They set out the objectives and policies and methods, including rules, to promote the sustainable management of the region. The MSRMP covers the northern extent of Marlborough including the Marlborough Sounds, while the WARMP covers the southern extent of Marlborough including the Wairau valley and Awatere valley.

As the Port Underwood zone is located near the middle of Marlborough, the MSRMP/WARMP boundary intersects the project area. **Figure 6-1** (below) shows this intersection near the Rarangi area. Given this intersection, both plans are relevant to the current application, in addition to the PMEP.



Figure 6-1: MSRMP/WARMP Boundary Line

The PMEP is also a combined plan containing the regional policy statement, regional, regional coastal and district plans.

Decisions on the PMEP were released on 21 February 2020. Appeals have been lodged on some rules which are relevant to this proposal. Given that decisions on submissions have been publicly notified under clause 10(4) of Schedule 1 of the Act, all rules within the PMEP have legal effect in accordance with section 86B. The related definitions, appendices and overlays also have legal effect. For those situations where appeals have been lodged on the decisions relating to PMEP rules, some MSRMP and WARMP rules continue to be operative as well.

Council has released an 'Appeals Version' of the PMEP, which shows the rules that are subject to appeal and those that are to be treated as operative. When a PMEP rule is still subject to appeal, and the equivalent rule in the operative MSRMP or WARMP must also be considered, the most onerous rule takes precedence.

Due to the number of complex fault sites, Fault Assessment Sheets have been prepared for each complex site within the Port Underwood zone, and are attached as Appendix B. These assessment sheets reviewed the planning features, zones, and overlays at those locations.

6.2 PMEP Zoning and Overlays

The road corridor passes through a range of plan zones and overlays. Adjoining zones identified through the planning Fault Assessment Sheets in **Appendix B** are:

- Unzoned Legal Road
- Coastal Environment Zone
- Coastal Living Zone
- Open Space 2 Zone
- Open Space 3 Zone
- Urban Residential 2 Zone
- Rural Environment Zone
- Marina Zone

Overlays and notable features:

- Outstanding Natural Feature and Outstanding Natural Landscape
- Coastal Natural Character, High and Very High.
- Marlborough Sounds High Amenity Landscape
- Water Resource Units – Small Sounds Streams, Waitohi River, Tuamarina River, Pukaka Stream, Coastal Wairau Complex (PMEP Appendix 5)
- Level 2 Flood Hazard overlay
- Significant Wetlands (Pukaka Valley Road and Rarangi)
- Heritage Resources – Kakapo Bay Whaling Station
- National Grid Transmission Line
- Threatened Environments overlay

6.3 WARMP/MSRMP Zoning and Overlays

It is noted that this zone passes over the delineated boundary between the WARMP and MSRMP. The majority of the faults are located within the extent of the MSRMP, however the southern part of the zone is located within the extent of the WARMP.

6.3.1 WARM P

The road corridor passes through a range of plan zones and overlays. Adjoining zones identified through the planning Fault Assessment Sheets in Appendix B are:

- Unzoned Legal Road
- Rural 3 and 4 Zone
- Conservation Zone (C2)

Overlays and notable features:

- Floodway
- Riparian Setback
- Outstanding Natural Feature (Whites Bay)
- WARM P Heritage sites

6.3.2 MSRMP

The road corridor passes through a range of plan zones and overlays. Adjoining zones identified through the planning Fault Assessment Sheets in **Appendix B** are:

- Unzoned Legal Road
- Sounds Residential Zone
- Rural 1 Zone
- District Recreation Zone
- C1 Conservation Zone

Overlays and notable features:

- MSRMP Hazard Overlay (Unstable Land and Flooding)
- MSRMP Areas of Outstanding Landscape Value
- MSRMP Ecology Group (Appendix B)
- MSRMP Heritage sites

6.4 PMEP Rules Assessment

6.4.1 Chapter 2 – General Rules

Activity – Water Take, Use, Damming or Diversion

‘Section 2.2 Permitted Activities’ state that:

‘unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent where they comply with the applicable standards in 2.3’:

The proposed work sites will involve temporarily diverting watercourses to isolate the working area during construction. Works in the watercourses and placement of erosion protection may lead to some long-term (permanent) water diversion. It is noted that there are no permitted provisions for stream diversions.

Therefore, by default, a consent is required as a **discretionary activity** under Rule 2.5.5:

‘Any diversion of water not provided for as a Permitted Activity or limited as a Prohibited Activity’.

Activity – Activities in, On, Over or Under the Bed of a Lake or River

Permitted Rule 2.7.7 authorises:

‘Culvert installation and replacement in, on, under, or over the bed of a river’

The proposed works will, in many instances involve replacing existing and, in some instances, installing new culverts in the bed of a stream.

Permitted Rule 2.7.11 [Appealed] authorises the:

‘Removal or demolition of structures from riverbeds’

The proposed works will involve removing the existing damaged structures.

These activities shall be permitted without resource consent where they comply with the relevant standards. These are detailed in **Table 6-1** below.

Table 6-1: Standards that apply to all permitted activities as stated in Section 2.8 of the PMEP

Relevant Standards	Compliance Assessment
2.8.1 General	2.8.1 Will not comply
2.8.1.1. No refuelling or fuel storage or the storage or placement of any hazardous substance, including but not limited to oil, hydraulic fluid or other fluid lubricants, must take place within 20m of surface water.	2.8.1.1 Will comply This will be managed through implementation of the Erosion and Sediment Control Plan
2.8.1.2. The activity must not cause flooding or erosion of private land.	2.8.1.2 Will comply in most instances but cannot be guaranteed The proposed works will remediate, and in some instances, replace the existing blocked culverts and stabilise the site on completion. The changes in landform will alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.
2.8.1.3. The activity must be planned and conducted in a manner that does not compromise public safety.	2.8.1.3 Will comply A traffic management plan will be in place during works to ensure the safety of vehicles.
2.8.1.4. Any discharge of sediment into water must not, after reasonable mixing, cause a conspicuous change in colour or clarity of more than 20% for more than 8 hours in any 24-hour period and more than 40 hours in total in any calendar month.	2.8.1.4 Will comply in most instances but not all This will be managed through implementation of the Erosion and Sediment Control Plan. It is noted that in many instances the streambeds have been impacted by the storm event, and therefore there is existing sediment build-up in the waterway. Natural settling of the works sites and further storm events mean that compliance with this requirement cannot be guaranteed in all instances.

2.8.1.5. During the period of 1 September to 31 December in any year no activity must occur within 50m of an indigenous nesting bird in a lakebed or riverbed. [Appealed]	2.8.1.5 Will comply The sites generally do not support indigenous bird nesting environment on the ground.
2.8.1.6. An activity within the wetted area of a riverbed must not be carried out in a tidal reach between 1 February and 30 April in any year.	2.8.1.6 Will be managed to comply The majority of sites are not within a tidal reach. A condition of consent has been volunteered in the event that a fault site is within a tidal reach. The volunteered conditions of consent are attached as Appendix G.
2.8.1.7 The works or structures do not prevent any existing fish passage. [Appealed]	2.8.1.7 Will comply It is likely that the waterways and existing culverts in the Sounds in some instances do not provide for adequate fish passage. In those circumstances where no fish passage existed prior to the works, the new culvert(s) that are proposed do not change the existing situation. In some instances, fish passage can be improved and will be enhanced where the catchment characteristics are appropriate.
2.9.11.1. The activity disturbs less than 10m ³ of the bed. [Appealed]	2.9.11.1 May not comply Removal of some structures may result in larger disturbances than the permitted maximum volume.
2.9.11.2 It results in the complete removal of the structure from the bed, or the complete removal of that part of the structure requiring removal from the bed. [Appealed]	2.9.11.2 Will comply
2.9.11.3 No explosives shall be used in the demolition of the structure. [Appealed]	2.9.11.3 Will comply

The PMEP notes at the start of the section for Activity In, On, Over or Under the Bed of a Lake or River (s14) that:

‘The associated disturbance deposition, and discharges ancillary to the permitted activities In Rule 2.7 are permitted subject to compliance with Rules 2.8 and 2.9.’

This indicates that the sediment discharge associated with disturbance of a watercourse is permitted without a discharge permit subject to standards. These permitted activity standards should be met given the adherence to the erosion and sediment control plan.

Culvert Installation, Replacement and Repair

Section 2.9.7 states the standards that apply to specific permitted activities. Standards relevant to the proposed works are listed in **Table 6-2** below:

Table 6-2: Standards relevant to culvert installation and replacement in, on, under, or over the bed of a river.

Relevant Standards	Compliance Assessment
2.9.7. Culvert installation and replacement in, on, under, or over the bed of a river.	2.9.7 Will not comply
2.9.7.1. A secondary flow path must be provided which enables overtopping floodwaters to return to the downstream channel without increasing the flood hazard to any person's property not undertaking the culvert installation.	2.9.7.1 Will comply For specific engineering fixes any overflow will be designed for, ideally with flow directed into the existing downstream channel.
2.9.7.2. The invert of the culvert must be placed below the level of the riverbed by a distance equating to the diameter of the pipe divided by 5 (i.e., 20% of the culvert pipe) and at the same slope as the existing bed of the river.	2.9.7.2 Will not comply in all instances Due to the nature of the sites (i.e., topography, the watercourse characteristics, etc.) this will not be achieved in all instances.
2.9.7.3. There must be no increase in the velocity of flow through or downstream of the culvert at the river's median flow.	2.9.7.3 Will not comply in all instances It cannot be guaranteed that all proposed culvert outlets will achieve this standard, and some may produce a velocity higher than that in the current stream bed.
2.9.7.4. The total length of the culvert must not exceed 12m, except for a culvert passing beneath a State Highway where the total length of the culvert must not exceed the length necessary to pass beneath the legal road in that location.	2.9.7.4 Will not comply in all instances The proposed culverts may exceed 12m length.
2.9.7.5. The culvert installation must be designed and implemented to ensure there is no erosion or scour downstream of the culvert.	2.9.7.5 Will comply The culverts will be designed to ensure they will not result in erosion or scour.

As the proposed activity cannot meet relevant permitted standards, a consent with a **discretionary activity** status is required under Rule 2.10.1

'Any activity provided for as a Permitted Activity that does not meet the applicable standards.'

Discharge – Stormwater to Water

The proposed works to undertake the road repairs will involve exposed land disturbance sites, and stormwater will be encountered during works.

Permitted Rule 2.17.3 authorises the:

‘Discharge of stormwater to water’

The activity is permitted without resource consent where it complies with the relevant standards, detailed in **Table 6-3** below.

Table 6-3: Standards relevant to Discharge to Water

Relevant Standards	Compliance Assessment
2.17.3. Discharge of stormwater to water.	2.17.3 Will not comply
2.17.3.4. The discharge must not have, after reasonable mixing, any of the following effects on water quality: (a) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; (b) any conspicuous change in the colour or visual clarity; (c) any emission of objectionable odours to the extent that it causes an adverse effect; (d) the rendering of fresh water unsuitable for consumption by farm animals; (e) any significant adverse effects on aquatic life.	2.17.3.4.(b) Will not comply in all instances Due to the nature of the sites (i.e., topography, the watercourse characteristics, and local rainfall) (b) will be achieved in most instances but not all. Consent is sought to cover situations where stormwater discharges may cause a conspicuous change in visual clarity. Natural settling of the works sites and further storm events mean that compliance with this requirement cannot be guaranteed. Best practice will be implemented through the ESMP and ESCP. However, given the scale of earthworks and rainfall characteristics of the Marlborough Sounds, a conservative approach is taken, and a discharge permit is sought.
2.17.3.5. The discharge must not cause flooding on land other than land within the Floodway Zone. [Appealed].	2.17.3.5 Will not comply in all instances
2.17.3.6. The discharge must not cause erosion at, or downstream of, the discharge point.	The proposed drainage solutions will not achieve this in all instances but will be designed to avoid the existing situations in the Marlborough Sounds being worsened.
2.17.3.7. The discharge must not alter the natural course of the receiving water.	
2.17.3.8. The discharge point and any associated structure must be maintained so that it is clear of debris and structurally sound.	The changes in landform will alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.
	2.17.3.6 Will comply
	2.17.3.7 Will comply
	2.17.3.8 Will comply

Application is made for discharge permit for a **Discretionary Activity** under 2.19.1 for an activity provided for as a Permitted Activity or Controlled Activity that does not meet the applicable standards.

Activity – Activities within the Road and Rail Corridors

Permitted Rule 2.21.1 authorises:

‘Excavation and filling within the legal road by Road Controlling Authority’.

The proposed works to undertake the road repair will involve excavation and filling in the legal road. The activity shall be permitted without resource consent where it complies with the relevant standard, detailed in **Table 6-4** below.

Table 6-4: Standard for excavation and filling within the legal road by Road Controlling Authority

Relevant Standards	Compliance Assessment
2.22.5 Discharge of Dust	2.22.5 Will comply
2.22.5.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.	2.22.5.1 Will comply Dust will be managed to comply with this standard through implementation of the Erosion and Sediment Control Plan.
2.22.6.1 Excavation and filling must not, after reasonable mixing, result in any of the following effects in receiving waters:	2.22.6.1 Will comply
a) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or	(a) and (b) will comply This will be managed through the site-specific ESMP including Erosion and Sediment Control Plan
b) any conspicuous change in colour or visual clarity, or	(c) will comply The works will not result in any odour emissions.
c) any emission of objectionable odour, or	(d) will comply The works will replace the currently damaged/blocked culverts and structures and will repair the eroded road which is currently resulting in sediment discharging off site into the waterway.
d) the rendering of fresh water unsuitable for consumption by animals, or	(e) will comply As discussed previously, the completed works will have positive effects on the waterway and will improve the existing situation (new larger culverts and will stabilise the area) which will improve the environment for aquatic life.
e) any significant adverse effect on aquatic life.	

The proposed excavation and filling in the legal road is permitted under Rule 2.21.1 as with good management (ESCP) it complies with the relevant standard 2.22.6.1.

6.4.2 Chapter 3 – Rural Environmental Zone

There are areas of Rural Environment Zone, typically located away from the road network, which fall within the Port Underwood zone/project area. largely. As such, very few faults are recorded in this zone, and they are situated near the Rarangi Road and Rarangi Beach area.

Permitted activities in the Rural Environmental Zone that are relevant to the proposal include:

3.3.12 Indigenous vegetation clearance *[Appealed]*

3.3.15. Excavation *[Appealed in part]*

3.3.17 Filling of land with clean fill'

The above activities are associated with the proposed works. It is noted that while the overslips and underslips would have naturally disturbed the indigenous vegetation at some sites, some vegetation may need to be purposefully cleared for the access tracks, ancillary works and to remediate slip slopes.

These activities shall be permitted without resource consent where they comply with the relevant standards. These are detailed in **Table 6-5** below.

Table 6-5: Standards that apply to activities in the Rural Environmental Zone that are relevant to the proposed activities.

Relevant Standards	Compliance
3.2. Standards that apply to all permitted activities	3.2 Will not comply in all instances
3.2.1.9. A building must not be sited in, or within 8m of, a river, lake, Significant Wetland, drainage channel, Drainage Channel Network, the landward toe of any stopbank, or the sea.	3.2.1.9 Will not comply in all instances The road stabilisation structures, such as retaining walls, may in some instances require building consent. These structures can therefore be considered buildings and are generally permitted but are subject to setback requirements when located in zoned land adjacent to the road corridor.
3.2.1.11 For a site larger than 4000m ² , the following minimum setbacks must be provided: Habitable buildings: <ul style="list-style-type: none"> • 8m for the front boundary; • 25m for the rear boundary; • 25m for a side boundary. All other buildings (excluding crop protection structures): <ul style="list-style-type: none"> • 8m for the front boundary; • 5m for the rear boundary; • 5m for the side boundary. 	3.2.1.11 Will not comply in all instances It is possible that structures to remediate the road will not meet these setbacks according to where the road is currently located.
	3.2.3 Will comply

<p>3.2.3 Noise</p> <p>3.2.3.1 An activity must not cause noise that exceeds the following limits at any point within the notional boundary of any dwelling in the Rural Environment Zone (other than on a property on which the activity occurs): 7.00 am to 10.00 pm 65dB LA_{eq} 10.00 pm to 7.00 am 65dB LA_{eq} 75dB LAF_{max}</p> <p>3.2.3.7 Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.</p>	<p>3.2.3.1 Will be managed to comply</p> <p>Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise.</p> <p>It is noted that works that will result in noise emissions between 7am to 10pm.</p> <p>3.2.3.7 Will be managed to comply Works will be managed to comply with this NZ Standard.</p>
<p>3.2.9 Dust</p> <p>3.2.9.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site [Appealed].</p>	<p>3.2.9 Will comply</p> <p>3.2.9.1 Will be managed to comply Dust will be managed to comply with this standard through implementation of the Erosion and Sediment Control Plan.</p>
<p>3.3.12 Indigenous vegetation clearance</p> <p>3.3.12.1. Indigenous vegetation clearance must comply with Standards 3.3.13.1 to 3.1.13.11 (inclusive).</p> <p>3.3.12.2. The clearance of indigenous vegetation in the following circumstances is exempt from Standards 3.3.12.3 to 3.3.12.6 (inclusive): [Appealed].</p> <p>d) where the clearance is associated with the maintenance of existing roads, forestry roads, harvesting tracks, farm tracks, fence lines, cycling tracks or walking tracks; [Appealed].</p>	<p>3.3.12 Will comply</p> <p>3.3.12.1 Will comply</p> <p>3.3.12.2 Noted Vegetation clearance is exempt from the standards 3.3.12.3 to 3.3.12.6 as any clearance associated with the proposed works is for the maintenance of the road.</p>
<p>3.3.15 Excavation</p> <p>3.3.15.1 Excavation in excess of 1000m³ must not occur on any land with a slope greater than 20° within any 24 month period. This standard excludes; [Appealed].</p> <ul style="list-style-type: none"> • excavation undertaken for the maintenance of farm tracks; or • digging of postholes for the construction of fences. 	<p>3.3.15 Will not comply in all instances</p> <p>3.3.15.1 Will not comply in all instances The work may involve earthworks greater than 1000m³ on land steeper than 20°.</p> <p>3.3.15.2 Will not comply in all instances Excavation is likely to be required on slopes greater than 35°.</p>

<p>3.3.15.2 Excavation must not occur on any land with a slope greater than 35°.</p> <p>3.3.15.3 Excavation must not be in, or within:</p> <ul style="list-style-type: none"> • 8m of a river (except an ephemeral river when not flowing), lake or the coastal marine area; • 8m of a Significant Wetland or 30m of a river within a Water Resource Unit with a Natural State classification; • 8m of the landward toe of a stopbank and the depth of any excavation beyond that must not exceed 15% of the distance between the landward toe of the stopbank and the excavation. <p>3.3.15.4 The excavation must not occur on a slope greater than 7.5° if the activity is within a Soil Sensitive Area identified as loess soils except for the maintenance of existing erosion control structures.</p> <p>3.3.15.5 There must be no excavation in excess of 10m³ within a Groundwater Protection Area, unless the excavation is to establish a foundation for a building or a swimming pool permitted in this zone.</p> <p>3.3.15.6 Excavation must not be within such proximity to any abstraction point for a drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.</p> <p>3.3.15.7 There must be no excavation in excess of 100m³ within any 12 month period within a Level 2 or 3 Flood Hazard Area, or in the Level R Flood Hazard Area in the vicinity of Condors Overflow.</p> <p>3.3.15.8 There must be no excavation in excess of 500m³ per Record of Title located within the following Outstanding Natural Features and Landscapes within any 12 month period:</p>	<p>3.3.15.3 Will not comply (a) Will not comply – earthworks will be required within 8m of a stream (b) May not comply – earthworks may be required within 8 metres of a significant wetland (c) Will comply</p> <p>3.3.15.4 Will comply There are no areas of loess soils within the project area.</p> <p>3.3.15.5 Will comply There are no fault sites within any groundwater protection areas.</p> <p>3.3.15.6 Will comply There are no nearby drinking water supplies.</p> <p>3.3.15.7 Will not comply in all instances There are some areas within the Port Underwood zone that are within flood hazard overlays, and excavation may be required within these areas to remediate the roads.</p> <p>3.3.15.8 Does not apply None of these ONF/L are within the Port Underwood zone, and within Rural Environment Zone type.</p> <p>3.3.15.9 Will not comply in all instances Machinery will be required to operate within 8m of a stream to remediate faults. It is possible that machinery may need to operate within 8 metres of a significant wetland.</p> <p>3.3.15.10 Will be designed to comply</p> <p>3.3.15.11 Will comply ESC measures will be put in place during the works – and will be designed to comply.</p>
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<ul style="list-style-type: none"> • Chalk Range; • Inland Kaikoura Range; • Molesworth Station and Upper Clarence; • Limestone Coastline; • The Main Divide and Leatham Conservation Area. <p>This does not apply to excavation for the purposes of maintaining existing tracks, fences, races, and drains where their location and physical extent does not change; or the maintenance and replacement, and minor upgrading of network utilities.</p> <p>3.3.15.9 Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except an ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area.</p> <p>3.3.15.10 Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.</p> <p>3.3.15.11 Water control measures and sediment control measures must be designed, constructed and maintained in an area disturbed by excavation, such that the area is stable and the measures remain effective after completion of the excavation. The diameter of any culvert used to drain excavation must not be less than 300mm.</p> <p>3.3.15.12 Excavation must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or the water in any Significant Wetland, lake or the coastal marine area.</p> <p>3.3.15.13 Excavation must not cause water to enter onto any adjacent land under different ownership.</p>	<p>3.3.15.12 Will be managed to comply This will be managed through implementation of the Erosion and Sediment Control Plan.</p> <p>3.3.15.13 Will comply The works should in most instances not change the existing flow path of the stream.</p> <p>The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.</p>
	<p>3.3.17 Will not comply</p>

<p>3.3.17 Filling of land with clean fill.</p> <p>3.3.17.1 Filling in excess of 1000 must not occur within any 24 month period.</p> <p>3.3.17.2 Fill must not be placed over woody vegetation on land with a slope greater than 10°.</p> <p>3.3.17.3 There must be no fill in excess of 100m³ within any 12 month period within a Level 2 or 3 Flood Hazard Area, or in the Level R Flood Hazard Area in the vicinity of Conders Overflow.</p> <p>3.3.17.4 A filled area must designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.</p> <p>3.3.17.5 Water control measures and sediment control measures must be designed, constructed and maintained in a fill area, such that the area is stable and the measures remain effective after completion of the filling. The diameter of any culvert used to drain fill areas must not be less than 300mm.</p> <p>3.3.17.6 When the filling has been completed the filled area must be covered with at least 200mm of soil, and sown down with a suitable vegetative cover or other means to achieve a rapid vegetative cover.</p> <p>3.3.17.7 Filling must not be in, or within:</p> <p>(a) 8m of a river (except an ephemeral river when not flowing), or lake;</p> <p>(b) 8m of, a Significant Wetland or 30m of a river within a Water Resource Unit with a Natural State classification;</p> <p>(c) 8m of the landward toe of a stopbank;</p> <p>(d) 20m of the coastal marine area.</p> <p>3.3.17.8 Filling must not be within such proximity to any abstraction point for a drinking water supply registered under</p>	<p>3.3.17.1 Will not comply in all instances</p> <p>Filling in excess of 1000 m³ may be required to remediate some of the sites.</p>
	<p>3.3.17.2 Will not comply in all instances</p> <p>This cannot be excluded but generally will not occur.</p>
	<p>3.3.17.3 Will not comply in all instances</p> <p>There are some areas within the Port Underwood zone that are within flood hazard overlays, and excavation may be required within these areas to remediate the roads.</p>
	<p>3.3.17.4 Will comply</p> <p>Imported fill will be used for the construction of the road repair and the reinforced soil slopes. This will be stabilised on completion of the works</p>
	<p>3.3.17.5 Will comply</p> <p>ESC measures will be put in place during the works – and will be designed to comply.</p>
	<p>3.3.17.6 Will comply</p> <p>All fill areas appropriate to be vegetated (i.e., not retaining walls) will be topsoiled and vegetated.</p>
	<p>3.3.17.7 Will not comply in all instances</p> <p>(a) Will not comply – earthworks may be required within 8m of a stream</p> <p>(b) May not comply – earthworks may be required within 8 metres of a significant wetland</p> <p>(c) Will comply</p>
	<p>3.3.17.8 Will comply</p> <p>There are no nearby drinking water supplies.</p>
	<p>3.3.17.9 Will comply</p> <p>None of these ONF/L are within the Port Underwood zone, and within Rural Environment Zone type.</p>

<p>section 69J of the Health Act 1956 as to cause contamination of that water supply.</p> <p>3.3.17.9 There must be no filling in excess of 500m³ per Record of Title located within the following Outstanding Natural Features and Landscapes within any 12 month period:</p> <ul style="list-style-type: none"> a) Chalk Range; b) Inland Kaikoura Range; c) Molesworth Station and Upper Clarence; d) Limestone Coastline; e) The Main Divide and Leatham Conservation Area. <p>This does not apply to excavation for the purposes of maintaining existing tracks, fences, races, and drains where their location and physical extent does not change; or the maintenance and replacement, and minor upgrading of network utilities.</p> <p>3.3.17.10 Filling must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or the water in a Significant Wetland, lake or the coastal marine area.</p> <p>3.3.17.11 The filling must not occur on a slope greater than 7.5° if the filling is within a Soil Sensitive Area identified as loess soils.</p> <p>3.3.17.12 Filling must not cause water to enter onto any adjacent land under different ownership.</p>	<p>3.3.17.10 Will comply This will be implemented through the Erosion and Sediment Control Plan.</p> <p>3.3.17.11 Will comply There are no areas of loess soils within the project area.</p> <p>3.3.17.12 May not comply The works should in most instances not change the existing flow path of the stream. The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.</p>
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As the proposed activity involves earthworks of more than 1000m³ on a slope greater than 20° a consent is needed under Rule 3.5.1 which has a **restricted discretionary** activity status.

‘Excavation in excess of 1000m³ on any land with a slope greater than 20° within any 24 month period including excavation as part of Woodlot Forestry Harvesting activities but excluding excavation as part of Plantation Forestry Harvesting.’ [Appealed]

As the proposed activities (vegetation clearance, excavation, clean fill) cannot meet relevant permitted standards, a consent with a **discretionary activity** status is required under Rule 3.6.1:

‘Any activity provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity that does not meet the applicable standards.’

6.4.3 Chapter 4 – Coastal Environmental Zone

Permitted activities in the Coastal Environmental Zone that are relevant to the proposal include:

'Coastal Environment Zone

4.1.10 Indigenous vegetation clearance *[Appealed]*

4.1.13. Excavation

4.1.15 Filling of land with clean fill'

The above activities are associated with the proposed works. It is noted that while the debris flow naturally disturbed indigenous vegetation at some sites, some vegetation may need to be purposely cleared for the access tracks, ancillary works and to remediate slip slopes.

These activities shall be permitted without resource consent where they comply with the relevant standards. These are detailed in **Table 6-6** below.

Table 6-6: Standards in the Coastal Environmental Zone that are relevant to the proposed activities

Relevant Standards	Compliance
4.2. Standards that apply to all permitted activities	4.2 Will not comply
4.2.1.3 On a site smaller than 4000m ² , the minimum setbacks from site boundaries must be: (a) 6m for a building that is a dwelling; (b) 3m for a building (except a dwelling) that has a gross floor area greater than 15m ² ; (c) 1.5m for a building (except a dwelling) that has a gross floor area less than 15m ² . 4.2.1.8 A building must not be sited in, or within 8m of, a river, lake, Significant Wetland, drainage channel, the landward toe of any stopbank or the sea. 4.2.1.10 For a site larger than 4000m ² , the following minimum setbacks must be provided: (a) 8m for the front boundary; (b) 5m for the rear boundary; (c) 5m for a side boundary.	4.2.1.3 Will not comply in all instances The road stabilisation structures, such as retaining walls, may in some instances require building consent. These structures can therefore be considered buildings and are generally permitted but are subject to setback requirements when located in zoned land adjacent to the legal road. 4.2.1.8 Will not comply in all instances It is possible that structures to remediate the road will not meet these setbacks according to where the road is currently located. 4.2.1.10 Will not comply in all instances Structures are located where the road currently passes.
4.2.2 Noise (and 7.2.2) 4.2.2.1 An activity must not cause noise that exceeds the following limits at any point within the notional boundary of any dwelling in the Coastal Environment Zone (other than on a property on which the activity occurs): 7.00 am to 10.00 pm 65dB LA _{eq} 10.00 pm to 7.00 am 65dB LA _{eq} 75dB LAF _{max}	4.2.2 Will comply 4.2.2.1 Will be managed to comply Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise. It is noted that works that will result in noise emissions will be limited to the hours of 7am to 10pm.

4.2.2.7 Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.	4.2.2.7 Will be managed to comply Works will be managed to comply with this NZ Standard.
4.2.7 Dust (and 7.2.6) 4.2.7.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site [Appealed].	4.2.7 Will comply 4.2.7.1 Will be managed to comply Dust will be managed to comply with this standard in accordance with the Erosion and Sediment Control Plan.
4.3.10 Indigenous vegetation clearance (and 7.3.7) 4.3.10.1 Indigenous vegetation clearance must comply with Standards 4.3.11.1 to 4.3.11.12 (inclusive). 4.3.10.2 The clearance of indigenous vegetation in the following circumstances is exempt from Standards 4.3.10.3 to 4.3.10.6 (inclusive): ... (d) where the clearance is associated with the maintenance of existing roads, forestry roads, harvesting tracks, farm tracks, fence lines, cycling tracks or walking tracks; 4.3.11.1 Where clearance is by mechanical means, blading or root-raking by a bulldozer must not be used on slopes greater than 20°. [Appealed]. 4.3.11.2 Vegetation must not be removed by fire or mechanical means within 8m of a river (except an ephemeral river, or intermittently flowing river when not flowing), lake or the coastal marine area. [Appealed]. 4.3.11.3 Vegetation clearance must not be in, or within 8m of a Significant Wetland except: [...] [Appealed]. 4.3.11.4 Vegetation clearance must not be within such proximity to any abstraction point for a community drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply. [Appealed]. 4.3.11.5 All trees must be felled away from a river (except an ephemeral river, or intermittently flowing river when not flowing), lake, Significant Wetland or the coastal marine area. [Appealed]. 4.3.11.6 Notwithstanding 4.3.11.5, where trees are leaning over a river, lake, Significant Wetland or coastal marine area, they must be felled in accordance with industry safety practices. [Appealed].	4.3.10 Will not comply 4.3.10.1 Will not comply in all instances Machinery will need to work within 8 metres of a river to remediate sites and repair the roads. 4.3.10.2 Noted Vegetation clearance is exempt from the standards 4.3.10.3 to 4.3.10.6 as any clearance associated with the proposed works is for the maintenance of the road. 4.3.11.1 Will comply Blading and root raking is not proposed. 4.3.11.2 Will not comply in all instances Fire will not be used to clear vegetation although it seems likely they will need to remove vegetation with mechanical means within 8 metres of a river. 4.3.11.3 Will not comply in all instances There are a number of significant wetlands within the Port Underwood zone. All efforts will be made to avoid working near a wetland, however it cannot be guaranteed that works would not be required within 8 metres of a wetland. However, in most instances works will be contained within legal road boundaries and not within zoned land, or within a Significant Wetland. It is noted that there are no complex faults near a Significant Wetland. 4.3.11.4 Will comply There are no community water supplies near the faults. 4.3.11.5 Will comply Any clearance that may need to be carried out will be felled away from a flowing waterway.

<p>4.3.11.7 Except for trees felled in accordance with 4.3.11.6 no tree or log must be dragged through the bed of a river (except an ephemeral river or intermittently flowing river, when not flowing), lake or Significant Wetland or through the coastal marine area. [Appealed].</p> <p>4.3.11.8 Wheeled or tracked machinery must not be operated in or within 8m of:</p> <ul style="list-style-type: none"> (a) a river (except an ephemeral river or intermittently flowing river, when not flowing); (b) a lake; (c) a Significant Wetland except where the wetland is fenced in accordance with the wetland boundaries mapped in the Plan, in which case wheeled or tracked machinery may be operated up to the fenced boundary; or (d) the coastal marine area. [Appealed]. <p>4.3.11.9 On completion of a vegetation clearance, a suitable vegetative cover that will mitigate soil loss, is to be restored on the site so that, within 24 months the amount of bare ground is to be no more than 20% greater than prior to the vegetation clearance taking place. [Appealed].</p> <p>4.3.11.10 The depth of topsoil removed must not exceed more than 20mm over more than 15% of any vegetation clearance site.</p> <p>4.3.11.11 Woody material greater than 100mm in diameter and soil debris must:</p> <ul style="list-style-type: none"> (a) not be left within 8m of, or deposited in, a river (except an ephemeral river or intermittently flowing river when not flowing), lake, Significant Wetland or the coastal marine area; (b) not be left in a position where it can enter, or be carried into, a river (except an ephemeral river), lake, Significant Wetland or the coastal marine area; (c) be stored on stable ground; (d) be managed to avoid accumulation to levels that could cause erosion or instability of the land. [Appealed]. <p>4.3.11.12 Vegetation clearance must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or the water in a Significant Wetland, lake or the coastal marine area. [Appealed].</p>	<p>4.3.11.6 Not applicable to the works</p> <p>4.3.11.7 Will comply Any cleared vegetation will not be dragged through the waterway.</p> <p>4.3.11.8 May not comply (a) Will not comply; Machinery will be within 8m of the stream (b) Will comply – no nearby lake (c) May not comply in all instances (d) Will comply – site not within CMA</p> <p>4.3.11.9 Will comply Disturbed areas will be re-vegetated / stabilised on completion of works at each fault site.</p> <p>4.3.11.10 May not comply in all instances Topsoil at various fault sites has been disturbed naturally by the debris flow/ storm event. Some additional topsoil removal may be required to form the access to repair the sites. Each site will be stabilised on completion though topsoil may not be able to be completely restored.</p> <p>4.3.11.11 Will comply Any cleared vegetation will be removed from site and disposed at an appropriate facility.</p> <p>4.3.11.12 Will comply This will be managed through implementation of the Erosion and Sediment Control Plan. It is noted that the streambed has been impacted by the storm event, and therefore there is naturally occurring sediment build-up in the waterway.</p>
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<p>4.3.13 Excavation</p> <p>4.3.13.1 Excavation in excess of 1000m³ must not occur on any land with a slope greater than 20° within any 24 month period. This standard excludes:</p> <ul style="list-style-type: none"> (a) excavation undertaken for the maintenance of farm tracks; or (b) digging of postholes for the construction of fences. <p>4.3.13.2 Excavation must not occur on any land with a slope greater than 35°.</p> <p>4.3.13.3 Excavation must not be in, or within:</p> <ul style="list-style-type: none"> (a) 8m of a river (except an ephemeral river when not flowing), lake or the coastal marine area; (b) 8m of a Significant Wetland; (c) 8m of the landward toe of a stopbank and the depth of any excavation beyond that must not exceed 15% of the distance between the landward toe of the stopbank and the excavation. <p>4.3.13.4 Excavation must not be within such proximity to any abstraction point for a drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.</p> <p>4.3.13.5 Excavation must not be within a Level 2 or 3 Flood Hazard Area.</p> <p>4.3.13.6 There must be no excavation in excess of 500m³ per Record of Title located within the Marlborough Sounds Outstanding Natural Feature and Landscape within any 12-month period. This does not apply to excavation for the purposes of maintaining existing tracks, fences, races, and drains where their location and physical extent does not change.</p> <p>4.3.13.7 Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except an ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area.</p> <p>4.3.13.8 Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.</p> <p>4.3.13.9 Water control measures and sediment control measures must be designed, constructed, and maintained in an area disturbed by</p>	<p>4.3.13 Will not comply</p> <p>4.3.13.1 Will not comply in all instances The work may involve earthworks greater than 1000m³ on land steeper than 20°.</p> <p>4.3.13.2 Will not comply in all instances Excavation will be required on slopes greater than 35°.</p> <p>4.3.13.3 Will not comply in all instances (a) Will not comply – earthworks will be within 8m of a stream at some sites (b) May not comply – excavation within 8 metres of a Significant Wetland cannot be ruled out to repair all faults within the network. However, there are no Significant Wetlands near the complex sites within the project area. (c) Will comply</p> <p>4.3.13.4 Will comply Not near drinking water supplies.</p> <p>4.3.13.5 Will not comply in all instances There are some areas within the Port Underwood zone that have flood hazard overlays, and excavation may be required to remediate the roads.</p> <p>4.3.13.6 Will not comply in all instances In the Port Underwood zone there are locations where there is an Outstanding Natural Feature and Landscape overlay either at the site or adjacent to the site. It cannot be guaranteed that excavation would be limited to 500 cubic metres in these locations to remediate the roads.</p> <p>4.3.13.7 Will not comply in all instances Machinery will be required to operate within 8m of a stream to remediate the roads. All works will comply with the ESCP provided in Appendix D.</p> <p>4.3.13.8 Will be designed to comply</p>
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<p>excavation, such that the area is stable, and the measures remain effective after completion of the excavation. The diameter of any culvert used to drain excavation must not be less than 300mm.</p> <p>4.3.13.10 Excavation must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or the water in any Significant Wetland, lake or the coastal marine area.</p> <p>4.3.13.11. Where the excavation results in areas of exposed soil, those areas must be revegetated within 12 months of the completion of the excavation.</p> <p>4.3.13.12. Excavation must not cause water to enter onto any adjacent land under different ownership.</p> <p>4.3.13.13. Excavation must not be associated with the construction or maintenance of forestry roads, forestry tracks, or skid sites.</p>	<p>4.3.13.9 Will comply ESCP measures will be put in place during the works – and will be designed to comply.</p>
	<p>4.3.13.10 Will comply This will be managed through implementation of the Erosion and Sediment Control Plan.</p>
	<p>4.3.13.11 Will comply Sites will be revegetated / stabilised on completion of excavation works.</p>
	<p>4.3.13.12 May not comply in all instances The works should in most instances maintain the existing flow path of the stream.</p> <p>The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.</p>
	<p>4.3.13.13 Will comply The excavation is for the repair of the road, culvert and retaining wall, not for forestry.</p>
<p>4.3.15. Filling of land with clean fill.</p> <p>4.3.15.1 Filling in excess of 1000m³ must not occur within any 24-month period.</p> <p>4.3.15.2 Fill must not be placed over woody vegetation on land with a slope greater than 10°.</p> <p>4.3.15.3 Fill must not be within a Level 2 or 3 Flood Hazard Area.</p> <p>4.3.15.4 There must be no filling in excess of 500m³ per Record of Title located within the Marlborough Sounds Outstanding Natural Feature and Landscape within any 12-month period. This does not apply to excavation for the purposes of maintaining existing tracks, fences, races, and drains where their location and physical extent does not change.</p> <p>4.3.15.5 A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.</p> <p>4.3.15.6 Water control measures and sediment control measures must be designed, constructed and maintained in a fill area, such that the area is stable and the measures remain effective after completion of the filling. The diameter of any culvert used to drain fill areas must not be less than 300mm.</p>	<p>4.3.15 Will not comply</p>
	<p>4.3.15.1 Will not comply in all instances Filling in excess of 1000 m³ may be required to remediate some of the sites.</p>
	<p>4.3.15.2 Will not comply in all instances This cannot be excluded but generally will not occur.</p>
	<p>4.3.15.3 Will not comply in all instances There are some areas within the Port Underwood zone that have flood hazard overlays, and fill may be required to remediate the roads.</p>
	<p>4.3.15.4 Will not comply in all instances In the Port Underwood zone there are locations where there is an Outstanding Natural Feature and Landscape overlay either at the site or adjacent to the site. It cannot be guaranteed that fill would be limited to 500 m³ in these locations to remediate the roads.</p>
	<p>4.3.15.5 Will be designed to comply</p>

<p>4.3.15.7 When the filling has been completed the filled area must be covered with at least 200mm of soil, and sown down with a suitable vegetative cover or other means to achieve a rapid vegetative cover.</p> <p>4.3.15.8 Filling must not be in, or within:</p> <ul style="list-style-type: none"> (a) 8m of a river (except an ephemeral river when not flowing) or lake; (b) 8m of, a Significant Wetland; (c) 8m of the landward toe of a stopbank; (d) 20m of the coastal marine area. <p>4.3.15.9 Filling must not be within such proximity to any abstraction point for a drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.</p>	<p>ESCP measures will be put in place during the works.</p>
	<p>4.3.15.6 Will be designed to comply ESCP measures will be put in place during the works.</p>
	<p>4.3.15.7 Will comply Imported fill will be used for the construction of the road repair and the reinforced soil slope. This will be stabilised on completion of the works.</p>
	<p>4.3.15.8 Will not comply in all instances Deposition of clean fill material during the works will be within 8m of the stream so will not comply with (a).</p>
	<p>4.3.15.9 Will comply Works are not near any drinking water supply.</p>

As the proposed activity involves earthworks of more than 1000m³ on a slope greater than 20° a consent is needed under Rule 4.5.2 which has a **restricted discretionary** activity status.

'Excavation in excess of 1000m³ on any land with a slope greater than 20° within any 24-month period including excavation as part of Woodlot Forestry Harvesting. Matters over which the Council has restricted its discretion The effects on water quality, aquatic ecosystems and soil conservation from the excavation.' **[Appealed]**

As the proposed activities (vegetation clearance, excavation, clean fill) cannot meet relevant permitted standards, a consent with a **discretionary activity** status is required under Rule 4.6.1.

'Any activity provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity that does not meet the applicable standards.'

6.4.4 Chapter 5 – Urban Residential 2 Zone

There are several fault sites which fall within the Urban Residential 2 Zone. Faults at these locations are classified as minor faults, including culvert issues, overslips, and trees/debris issues. As such, the following assessment is restricted to relevant permitted activities which include:

5.1.15 Excavation or filling

5.1.32 Discharge of dust

Table 6-7: Relevant permitted activity standards in the Urban Residential 2 Zone

Relevant Standard	Compliance
5.2. Standards that apply to all permitted activities	

<p>5.2.2 Noise</p> <p>5.2.2.1. An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property within the zone:</p> <table border="0"> <tr> <td>7.00 am to 10.00 pm</td> <td>50dB LAeq</td> </tr> <tr> <td>10.00 pm to 7.00 am</td> <td>40dB LAeq 70dB LAFmax</td> </tr> </table> <p>5.2.2.2 Noise must be measured in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise.</p> <p>5.2.2.3 Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.</p>	7.00 am to 10.00 pm	50dB LAeq	10.00 pm to 7.00 am	40dB LAeq 70dB LAFmax	<p>5.2.2.1 Will be managed to comply</p> <p>Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise.</p> <p>It is noted that works that will result in noise emissions; will be limited to the hours of 7am to 10pm.</p> <hr/> <p>5.2.2. Will be managed to comply</p> <p>Works will be managed to comply with this NZ Standard.</p> <hr/> <p>5.2.2.3 Will be managed to comply</p> <p>Works will be managed to comply with this NZ Standard.</p>
7.00 am to 10.00 pm	50dB LAeq				
10.00 pm to 7.00 am	40dB LAeq 70dB LAFmax				
<p>5.2.7 Dust</p> <p>5.2.7.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site</p>	<p>5.2.7.1. Will be managed to comply</p> <p>Dust will be managed to comply with this standard through implementation of the Erosion and Sediment Control Plan.</p>				
<p>5.3.10 Excavation or filling</p> <p>5.3.10.3. The maximum volume for excavation must not exceed 50m³ per Record of Title within any 12 month period, unless the excavation is to establish the foundation for a building permitted in this zone.</p> <p>5.3.10.4. The maximum volume for filling must not exceed 50m³ per Record of Title within any 12 month period, unless the filling is to establish the foundation for a building permitted in this zone.</p> <p>5.3.10.5. Excavation must not occur on land with a slope greater than 10°.</p> <p>5.3.10.6. There must be no excavation in excess of 10m³ within a Groundwater Protection Area, unless the excavation is to establish a foundation for a building or a swimming pool permitted in this zone.</p>	<p>5.3.10.3 Likely to comply</p> <p>Extensive excavation is not expected to be carried out in this zone due to the nature of the faults. Excavation is therefore unlikely to exceed this volume.</p> <hr/> <p>5.3.10.4 Will comply</p> <p>It is not expected that any extensive filling will take place in this zone. Therefore, will comply.</p> <hr/> <p>5.3.10.5 Will not comply in all instances.</p> <p>Limited excavation may occur on land with a slope greater than 10 degrees.</p>				

<p>5.3.10.7. Excavation must not intercept groundwater, and filling must not cause any ponding of surface run-off.</p> <p>5.3.10.8. Excavation or filling must not occur in, or within 8m of a river, drainage channel or Drainage Channel Network.</p> <p>5.3.10.9. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.</p> <p>5.3.10.10. A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.</p> <p>5.3.10.11. Water control measures and sediment control measures must be designed, constructed and maintained in all areas disturbed by any excavation or filling, such that the areas are stable and the measures remain effective after completion of the excavation or filling. No culvert size less than 300mm may be used to drain any excavation or fill areas.</p> <p>5.3.10.12. Excavation or filling must not occur on a slope greater than 7.5° if the activity is within a Soil Sensitive Area identified as loess soils.</p> <p>5.3.10.13. For staged excavation or filling, any part of the excavation or fill area that has not been further developed within 12 months must be re-vegetated.</p> <p>5.3.10.14. Where the excavation or filling results in areas of exposed soil, those areas must be re-vegetated within 12 months of the completion of the excavation or filling.</p> <p>5.3.10.15. The fill must not contain any: (a) hazardous substances; (b) combustible or organic materials; (c) any other contaminant subject to chemical or biological breakdown; (d) liquids or sludge.</p> <p>5.3.10.16. Excavation or filling must not cause water to enter onto any adjacent land under different ownership.</p>	<p>5.3.10.6 Does not apply</p> <p>Works will not affect any groundwater protection areas.</p>
	<p>5.3.10.7 Will be managed to comply</p> <p>Scale of excavation proposed shall not intercept groundwater or cause ponding of surface water.</p>
	<p>5.3.10.8 Will not comply in all instances</p> <p>Excavation may be required within 8m of a waterway, drainage channel or Drainage Channel Network, due to the nature of the fault types.</p>
	<p>5.3.10.9 Will comply</p> <p>The scale of any excavation and filling in this zone will be minor. As such, stability and effectiveness should be ensured after completion of excavation.</p>
	<p>5.3.10.10 Will comply</p> <p>The scale of any excavation and filling in this zone will be minor. As such, stability and effectiveness should be ensured after completion of excavation.</p>
	<p>5.3.10.11 Will comply</p> <p>ESC measures will be put in place during the works – and will be designed to comply.</p>
	<p>5.3.10.12 Does not apply</p> <p>No soil sensitive areas in this zone type.</p>
	<p>5.3.10.13 Does not apply</p> <p>No staged excavation taking place.</p>
	<p>5.3.10.14 Will be managed to comply</p> <p>Any excavated sites will be managed to comply, in accordance with the EMP.</p>

	5.3.10.15 Will comply Any fill placed will comply with Council's standards for fill.
	5.3.10.16 Will comply Scale of excavation in the urban residential zone shall not cause any flow of water into adjacent land.

Works in the Urban Residential 2 zone shall comply with performance standards associated with noise and dust. Given the limited nature of any proposed excavation, works are likely to comply with permitted activity standards for excavation as well. However, out of an abundance of caution, consent is also sought for a **discretionary** consent for land disturbance.

5.5.1. Any activity provided for as a Permitted Activity or Controlled Activity that does not meet the applicable standards.

6.4.5 Chapter 7 – Coastal Living Zone

Permitted activities in the Coastal Living Zone that are relevant to the proposal include:

'Coastal Living Zone

7.1.9 Indigenous vegetation clearance [Appealed]

7.1.11 Excavation or filling'

These activities shall be permitted without resource consent where they comply with the relevant standards. These are detailed in **Table 6-8** below.

Table 6-8: Standards that apply to activities in the Coastal Living Zone that are relevant to the proposed activities.

Relevant Standard	Compliance
7.2. Standards that apply to all permitted activities 7.2.1.7. Not withstanding Standard 7.2.1.5, on a site larger than 4,000m ² , a building must not be constructed or sited from within 8m of any site boundary. 7.2.1.8. A building or structure must not be constructed or sited in, or within 8m of, a river, Significant Wetland or the landward toe of any stopbank.	7.2.1.7 Will not comply in all instances The road stabilisation structures, such as retaining walls, may in some instances require building consent. These structures can therefore be considered buildings and are generally permitted but are subject to setback requirements when located in zoned land adjacent to the legal road.
	7.2.1.8 Will not comply in all instances Road stabilisation structures may be required to be constructed or sited within 8 metres of a waterway.
	7.2.2 Will comply

<p>7.2.2 Noise</p> <p>7.2.2.1 An activity must not cause noise that exceeds the following limits at any point within the notional boundary of any dwelling in the Coastal Environment Zone (other than on a property on which the activity occurs): 7.00 am to 10.00 pm 65dB LA_{eq} 10.00 pm to 7.00 am 65dB LA_{eq} 75_{dB} LAF_{max}</p> <p>7.2.2.7 Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.</p>	<p>7.2.2.1 Will be managed to comply Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise.</p> <p>It is noted that works that will result in noise emissions will be limited to the hours of 7am to 10pm.</p> <p>7.2.2.7 Will be managed to comply Works will be managed to comply with this NZ Standard.</p>
<p>7.2.6 Dust</p> <p>7.2.6.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site [Appealed].</p>	<p>7.2.6.1. Will be managed to comply Dust will be managed to comply with this standard through implementation of the Erosion and Sediment Control Plan.</p>
<p>7.3.7 Indigenous vegetation clearance</p> <p>These standards listed in 7.3.7.1 – 7.3.7.8 are similar to 4.3.10.1 - 4.3.11.12 for the Coastal Environment Zone. The standards and equivalent appeals have been assessed.</p>	<p>7.3.7 Will not comply in all instances It is unclear if standards 7.3.7.5. 7.3.7.6(a) and 7.3.7.8.(a) will be met. Therefore, project is assessed as non-compliant with 7.3.7.</p>
<p>7.3.9. Excavation or filling.</p> <p>7.3.9.1. Excavation or filling must not occur within 8m of the landward toe of a stopbank and the depth of any excavation must not exceed 20% of the distance between the landward toe of the stopbank and the excavation.</p> <p>7.3.9.2. Excavation or filling must not be within a Level 2 or 3 Flood Hazard Area.</p> <p>7.3.9.3. The maximum volume for excavation must not exceed 50m³ per Record of Title within any 12 month period, unless the excavation is to establish the foundation for a building permitted in this zone.</p> <p>7.3.9.4. The maximum volume for filling must not exceed 50m³ per Record of Title within any 12 month period, unless the filling is to establish the foundation for a building permitted in this zone.</p> <p>7.3.9.5. Excavation must not occur on any land with a slope greater than 25°.</p> <p>7.3.9.6. Excavation must not intercept groundwater or cause any ponding of surface run-off.</p> <p>7.3.9.7. Excavation and filling must not occur in, or within 8m of, a river, Significant Wetland, drainage channel or Drainage Channel Network and filling must not occur within 20m of the coastal marine area.</p>	<p>7.3.9 Will not comply</p> <p>7.3.9.1 Will comply There are no stopbanks within the zone.</p> <p>7.3.9.2 Will not comply in all instances There are some areas within the Port Underwood zone that have flood hazard overlays, and excavation may be required to remediate the roads.</p> <p>7.3.9.3 Will not comply in all instances Excavations are likely to exceed this volume on a single title.</p> <p>7.3.9.4 Will not comply in all instances Fill is likely to exceed this volume on a single title.</p> <p>7.3.9.5 Will not comply Excavations will occur on slopes greater than 25 degrees.</p> <p>7.3.9.6 Will comply</p> <p>7.3.9.7 Will not comply in all instances Given the number of streams that cross the network this standard cannot be met at all sites.</p> <p>7.3.9.8 May not comply in all instances</p>

<p>7.3.9.8. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.</p> <p>7.3.9.9. A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.</p> <p>7.3.9.10. Water control measures and sediment control measures must be designed, constructed and maintained in all areas disturbed by any excavation or filling, such that the areas are stable and the measures remain effective after completion of the excavation or filling. The diameter of a culvert used to drain excavation or fill area must not be less than 300mm.</p> <p>7.3.9.11. Excavation or filling must not occur on a slope greater than 7.5 degrees if the activity is within a Soil Sensitive Area identified as loess soils.</p> <p>7.3.9.12. For staged excavation or filling, any part of the excavation or filled area that has not been further developed within 12 months must be re-vegetated</p> <p>7.3.9.13. Where the excavation or filling results in areas of exposed soil, those areas must be re-vegetated within 12 months of the completion of the excavation or filling.</p> <p>7.3.9.14. The fill must not contain any:</p> <p>(a) hazardous substances;</p> <p>(b) combustible or organic materials;</p> <p>(c) any other contaminant subject to chemical or biological breakdown;</p> <p>(d) liquids or sludge.</p> <p>7.3.9.15. Excavation or filling must not cause water to enter onto any adjacent land under different ownership.</p>	<p>Once batters are complete compliance should be achieved. However, faults and rainfall may still result in destabilisation of batters.</p>
	<p>7.3.9.9 Will comply</p> <p>The ESMP and ESCP will aim to incorporate measures to achieve this outcome.</p>
	<p>7.3.9.10 Will comply</p> <p>The ESCP will aim to incorporate measures to achieve this outcome. Inspection frequency is outlined in the ESCP. Maintenance consent will assist with compliance.</p>
	<p>7.3.9.11 Will comply</p> <p>No soil sensitive areas have been identified within the zone.</p>
	<p>7.3.9.12 Will not comply in all instances</p> <p>This is impossible to achieve given the scale of works required and resources available. A degree of natural regeneration will occur in certain areas.</p>
	<p>7.3.9.13 Will not comply in all instances</p> <p>This is impossible to achieve given the scale of works required and resources available. A degree of natural regeneration will occur in certain areas.</p>
	<p>7.3.9.14 Will comply</p> <p>Fill will not contain these substances.</p>
	<p>7.3.9.15 Will not comply in all instances</p> <p>Given the scale of works along the network, full compliance with this requirement is not guaranteed. In most instances existing culverts and flow paths will be used.</p>

As the proposed activities (buildings, vegetation clearance, excavation, clean fill) cannot meet relevant permitted standards, a consent with a **discretionary activity** status is required under Rule 7.4.1.

'Any activity provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity that does not meet the applicable standards.'

6.4.6 Chapter 16 – Coastal Marine Zone

Permitted Activities in the Coastal Marine Zone include:

16.1.6. Removal or demolition of a building or structure, or any part of a building or structure.

16.1.14. Clearance of sand, shell, shingle or other natural material from a river mouth for flood mitigation. *[Appealed]*

16.1.15. Clearance of sand, shell, shingle or other natural material from a stormwater outfall pipeline, drain or culvert. *[Appealed]*

16.1.17. Non-mechanical removal of natural material from the foreshore or seabed

16.1.26 Repair and maintenance of existing lawfully established structures. *[Appealed]*

16.1.27 Discharge of dust.

The following table assesses the permitted activity standards associated with these activities.

Table 6-9: Relevant Coastal Marine Zone standards

Relevant Standard	Compliance Assessment
16.2. Standards that apply to all permitted activities	
16.2.1 Disturbance of the foreshore or seabed.	16.2.1. Will comply
16.2.1.1. Disturbance of the seabed must not occur within a Category A Ecologically Significant Marine Site.	16.2.1.1 Will comply
16.2.1.2. The disturbance must be undertaken in a manner which minimises water turbidity.	Works within the zone are limited in scope and should not affect the seabed near an ecologically significant Category A site.
16.2.1.3. The disturbance must not adversely affect navigational safety.	16.2.1.2 Will be managed to comply
16.2.1.4. There must be no contaminants released from equipment being used for the activity.	Works will be managed in accordance with the ESCP and ESMP and should comply with the specified standard.
16.2.1.5. All equipment must be removed from the coastal marine area on completion of the operation.	16.2.1.3 Will comply
	Any works will be carried out from the shore and should not affect navigational safety.
	16.2.1.4 Will be managed to comply
	Works will be carried out in accordance with the ESCP and ESMP and should comply with the specified standard.
	16.2.1.5 Will comply
	Equipment will be removed from the coastal marine area on completion of the works.
16.2.2. Maintenance, repair or replacement of a building or structure.	16.2.2 Will not comply in all instances
16.2.2.1. In the case of replacement, the building or structure to be replaced must have been lawfully established.	16.2.2.1 Will not comply in all instances
16.2.2.3. There must be no change in the location of the building or structure.	No structures are expected to be replaced at this stage. However, this cannot be ruled out. It cannot be guaranteed that all structures are lawfully established.
16.2.2.4. There must be no increase in the glazed area, or change to the location of existing glazing.	16.2.2.2 Will not comply in all instances
16.2.2.5. Any paint applied to the exterior cladding of a building or structure must have a light reflectance value of 45% or less.	In some instances, the size, scale or height of structures may differ, in order to enable ongoing resilience of the structure against natural hazards.
16.2.2.6. A building or structure must not be sited within 20m of a Riparian Natural Character Management Area, excluding stock fences.	16.2.2.3 Will not comply in all instances
	In some instances, there may be slight changes to the location of a structure in order

	to ensure that the structure remains resilient to natural hazards.
	16.2.2.4 Does not apply Structures will not involve glazing.
	16.2.2.5 Does not apply No paint will be applied to cladding of a structure.
	16.2.2.6 Will comply No structure within 20m of a Riparian Natural Character Management Area will be modified.
16.2.3 Noise 16.2.3.1. An activity must be conducted to ensure that noise when measured (a) at the notional boundary of a camping ground or hut administered by Marlborough District Council or the Department of Conservation, located in the Open Space 1, 2, or 3 Zones, where the zone adjoins the Coastal Marine Zone; or (b) at any point within the notional boundary of any habitable building on land zoned Coastal Living, Coastal Environment or Rural Environment; does not exceed the following noise limits: 7.00 am to 10.00 pm 50dB LAeq 10.00 pm to 7.00 am 40dB LAeq 70dB LAFmax 16.2.3.2. The following activities are excluded from having to comply with the noise limits: (a) noise generated by a navigational aid, safety signal, warning device, or emergency pressure relief valve; (b) noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage; (c) noise generated by a ship under way. 16.2.3.3. Noise must be measured in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound, and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise. 16.2.3.4. Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.	16.2.3 Will be managed to comply Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise and NZS 6802:2008 Acoustics – Environmental Noise. It is noted that works that will result in noise emissions; will be limited to the hours of 7am to 10pm. 16.2.3.1 Will be managed to comply Works will be managed to comply with these standards. 16.2.3.2 Does not apply. 16.2.3.3 Will be managed to comply Works will be managed to comply with this NZ Standard. 16.2.3.4 Will be managed to comply Works will be managed to comply with this NZ Standard.
16.2.6 Dust 16.2.6.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site	16.2.7.1. Will be managed to comply Dust will be managed to comply with this standard through implementation of the Erosion and Sediment Control Plan.
16.3.5 Removal or demolition of a building or structure, or any part of a building or	16.3.5.1 Will be managed to comply

structure. 16.3.5.1. The building or structure, or that part of the building or structure being removed or demolished, must be removed from the Coastal Marine Zone in its entirety, including all piles and subsurface structures. 16.3.5.2. Material removed or demolished from a building or structure must not be disposed of in the Coastal Marine Zone. 16.3.5.3. Foreshore or seabed material must not be removed from the coastal marine area.	16.3.5.1 Will be managed to comply
	16.3.5.2 Will be managed to comply No material belonging to demolished structures will be disposed of in the Coastal Marine Zone.
	16.3.5.3 Will not comply in all circumstances No foreshore and seabed material will be intentionally removed from the coastal marine area. However, if slip, or other natural material is to be removed from the coastal marine area in some instances this may disturb foreshore or seabed material.
16.3.10 Clearance of sand, shell, shingle or other natural material from a river mouth for flood mitigation. 16.3.10.1. The clearance must be carried out by, or on behalf of, the Marlborough District Council. 16.3.10.2. Disturbance must be limited to the amount necessary to clear the river mouth for flood mitigation purposes. 16.3.10.3. All equipment must be removed from the site on completion of the operation. 16.3.10.4. The best practicable option must be adopted to avoid significant sedimentation. 16.3.10.5. The clearance must not cause a safety hazard to other users of the river mouth. 16.3.10.6. There must be no contaminants released from equipment being used for the activity. 16.3.10.7. Fish passage must not be impeded. 16.3.10.8. Refuelling of equipment must not take place on any area of foreshore or seabed.	16.3.10 Will be managed to comply
	16.3.10.1 Will comply Works will be carried out on behalf of Marlborough Roads (Marlborough District Council).
	16.3.10.2 Will comply Any disturbance will be limited to that which is necessary for flood mitigation purposes.
	16.3.10.3 Will comply No equipment will be left at work sites following the completion of works. Work sites will be managed in accordance with the ESMP and ESCP.
	16.3.10.4 Will comply The most practicable option will be selected for the works.
	16.3.10.5 Will be managed to comply Works will be conducted in such a way that no safety hazard results from works to clear a river mouth. Work sites will be managed in accordance with the ESMP and ESCP.
	16.3.10.6 Will comply Works will be carried out in accordance with the ESCP and ESMP and should comply with the specified permitted activity standard.
	16.3.10.7 Will comply Fish passage will not be impeded as a result of works to remove sand, shell, shingle or other natural material from a river mouth.
	16.3.10.8 Will comply Works will be carried out in accordance with the ESCP and ESMP and will comply with the specified permitted activity standard.
16.3.11. Clearance of sand, shell, shingle or other natural material from a stormwater outfall pipeline, drain or culvert. 16.3.11.1. Disturbance must be undertaken by non-mechanical means, or be undertaken by, or on behalf of, the Marlborough District Council or the New Zealand Transport Agency.	16.3.11 Will be managed to comply
	16.3.11.1. Will comply All works will be undertaken on behalf of Marlborough Roads (Marlborough District Council). As such, any non-mechanical clearance of is permitted by this standard.

<p>16.3.11.2. Disturbance must be limited to the amount necessary to clear the outfall pipeline, drain or culvert for flood protection purposes.</p> <p>16.3.11.3. All equipment must be removed from the site on completion of the operation.</p> <p>16.3.11.4. The best practicable option must be adopted to avoid significant sedimentation.</p> <p>16.3.11.5. The clearance must not cause a safety hazard to other users of the waterbody.</p> <p>16.3.11.6. There must be no contaminants released from equipment being used for the activity.</p> <p>16.3.11.7. The clearance works must not result in fish passage being impeded.</p> <p>16.3.11.8. Refuelling of equipment must not take place on any area of foreshore or seabed.</p>	<p>16.3.11.2. Will comply Any disturbance will be limited to that which is necessary for flood mitigation purposes.</p>
	<p>16.3.11.3 Will comply No equipment will be left at work sites following the completion of works. Work sites will be managed in accordance with the ESMP and ESMP.</p>
	<p>16.3.11.4 Will comply The most practicable option will be selected for the works.</p>
	<p>16.3.11.5 Will comply Works will be conducted in such a way that no safety hazard results from works to clear a river mouth. Work sites will be managed in accordance with the ESMP and ESMP.</p>
	<p>16.3.11.6 Will be managed to comply Works will be carried out in accordance with the ESCP and ESMP and should comply with the specified permitted activity standard.</p>
	<p>16.3.11.7 Will comply Fish passage will not be impeded as a result of works to remove sand, shell, shingle or other natural material from a river mouth.</p>
	<p>16.3.11.8 Will comply Works will be carried out in accordance with the ESCP and ESMP and should comply with the specified permitted activity standard.</p>
<p>16.3.13 Non-mechanical removal of natural material from the foreshore or seabed.</p> <p>16.3.13.1. Natural material must not be removed from Shelley Beach, Picton Foreshore, or Waikawa Bay.</p> <p>16.3.13.2. No more than 0.5m³ of natural material, including but not limited to sand, shell or shingle but not including vegetation, must be removed by any individual within a calendar year.</p>	<p>16.3.13 Will not comply in all circumstances</p>
	<p>16.3.13.1 Will comply Natural material will be not removed from these areas.</p>
	<p>16.3.13.2 Will not comply in all circumstances Volume of natural material removed may exceed this volume in some instances.</p>

Given the above rules assessment, consents are required for **discretionary activities**, as follows:

16.6.1. Any activity provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity that does not meet the applicable standards.

As established in the above assessment, any repair or replacement of structures in the Coastal Marine Zone may not comply with the standards set out in Section 16.2.2.

16.6.7. Occupation of the coastal marine area, except by a marine farm, not associated with any Permitted Activity in the Coastal Marine Zone.

Any new protective structures installed in the Coastal Marine Zone are likely considered a discretionary activity and therefore require consent.

16.6.10 Any use of the coastal marine area, except a marine farm, not provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity, or limited as a Prohibited Activity.

In particular, excavation by mechanical means and placement of fill is not provided for within the Coastal Marine Zone. As such, consent is required for any excavation or filling with this zone.

6.4.7 Chapter 18 – Open Space 2 Zone

Permitted activities in the Open Space 3 Zone that are relevant to the proposal include:

'Open Space 2 Zone

18.1.5 Indigenous vegetation clearance [Appealed]

18.1.9 Excavation

18.1.10 Filling of land with clean fill'

The above activities are associated with the proposed works. It is noted that while underslips and overslips would have naturally disturbed the indigenous vegetation at some sites, some vegetation may need to be purposefully cleared for the access tracks, ancillary works and to remediate slip slopes.

These activities shall be permitted without resource consent where they comply with the relevant standards. These are detailed in **Table 6-10** below.

Table 6-10: Standards that apply to activities in the Open Space 3 Zone that are relevant to the proposed activities

Relevant Standards	Compliance
18.2.2 Noise 19.2.2.1 An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property: 7.00 am to 10.00 pm 50dB LA _{eq} 10.00 pm to 7.00 am 40dB LA _{eq} 70dB LAF _{max} 19.2.2.3 Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.	18.2.2 Will comply
	18.2.2.1 Will be managed to comply Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise. It is noted that works that will result in noise emissions between 7am to 10pm.
	18.2.2.3 Will be managed to comply Works will be managed to comply with this NZ Standard.
18.2.6 Dust 18.2.6.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.	18.2.5 Will comply
	18.2.5.1 Will be managed to comply Dust will be managed to comply with this standard in accordance with the Erosion and Sediment Control Plan.
18.3.3 Indigenous vegetation clearance 18.3.3.1 Indigenous vegetation clearance must comply with Standards 18.3.4.1 to 18.3.4.4 (inclusive).	18.3.3 Will comply
	18.3.3.1 Will comply
	18.3.3.2 Noted Vegetation clearance is exempt from the standards 18.3.3.3 to 18.3.3.4 as any clearance associated with

<p>18.3.3.2 The clearance of indigenous vegetation in the following circumstances is exempt from Standards 18.3.3.3 to 18.3.3.4 (inclusive): [Appealed].</p> <p>(c) Where the clearance is associated with the maintenance of existing roads, tracks fence lines, cycling tracks or walking tracks;</p> <p>18.3.3.5. Clearance of indigenous forest within the coastal environment must not exceed 1000m² per Record of Title in any 5 year period. [Appealed].</p>	<p>the proposed works is for the maintenance of the road.</p> <p>18.3.3.5 Will comply Vegetation clearance will not exceed 1000 square metres per Record of Title.</p>
<p>18.3.6 Excavation</p> <p>18.3.6.1 Excavation must not be in, or within:</p> <p>(a) 8m of a river (except any ephemeral river when not flowing), lake or the coastal marine area;</p> <p>(b) 8m of the landward toe of a stopbank and the depth of any excavation beyond that may not exceed 15% of the distance from the stopbank.</p> <p>18.3.6.2 There must be no excavation in excess of 10m³ within a Groundwater Protection Area.</p> <p>18.3.6.3 Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.</p> <p>18.3.6.4 Water control measures and sediment control measures must be designed, constructed and maintained in an area disturbed by excavation, such that the area is stable and the measures remain effective after completion of the excavation. The diameter of a culvert used to drain any excavation must not be less than 300mm.</p> <p>18.3.6.5 Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except any ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area.</p> <p>18.3.6.6 Excavation must not cause water to enter onto any adjacent land under different ownership.</p>	<p>18.3.5 Will not comply in all instances</p> <p>18.3.6.1 Will not comply in all instances Will not comply – earthworks will be within 8m of the stream at some sites.</p> <p>18.3.6.3 Will not comply in all instances Once batters are complete compliance should be achieved. However, faults and rainfall may still result in destabilisation of batters.</p> <p>18.3.6.4 Will comply ESC measures will be put in place during the works – and will be designed to comply.</p> <p>19.3.5.4 Will comply There are no areas of loess soils within the project area.</p> <p>18.3.6.5 Will not comply Machinery will need to work within 8 metres of a river, at some sites, to remediate sites and repair the roads.</p> <p>18.3.6.6 May not comply in all instances The works should in most instances maintain the existing flow path of the stream. The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.</p>
<p>18.3.7 Filling of land with clean fill.</p> <p>19.3.6.1 Filling must not be in, or within:</p>	<p>18.3.7.1 Will not comply in all instances</p> <p>18.3.7.1 Will not comply in all instances Deposition of clean fill material during the works will be within 8m of a stream so will not comply with (a).</p>

<p>(a) 8m of a river (except an ephemeral river when not flowing), lake or the coastal marine area;</p> <p>(b) 8m of, a Significant Wetland or 30m of a river within a Water Resource Unit with a Natural State classification;</p> <p>(c) 8m of the landward toe of a stopbank.</p>	<p>18.3.7.2 Will comply Imported fill will be used for the construction of the road repair and the reinforced soil slopes. This will be stabilised on completion of the works</p>
<p>18.3.7.2 A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.</p>	<p>18.3.7.3 Will comply ESC measures will be put in place during the works – and will be designed to comply.</p>
<p>18.3.7.3 Water control measures and sediment control measures must be designed, constructed and maintained in a fill area, such that the area is stable and the measures remain effective after completion of the filling. The diameter of any culvert used to drain any fill areas must be less than 300mm.</p>	<p>18.3.7.4 Will not comply Machinery will need to work within 8 metres of a river, at some sites, to remediate sites and repair the roads.</p>
<p>18.3.7.4 Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except an ephemeral river or intermittently flowing river, when not flowing) or the coastal marine area.</p> <p>18.3.7.5 Filling must not cause water to enter onto any adjacent land under different ownership.</p>	<p>18.3.7.5 Will not comply in all instances The works should in most instances maintain the existing flow path of the stream. The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.</p>

As the proposed activities (excavation, clean fill) cannot meet the relevant permitted standards, a consent with a **discretionary activity** status is required under Rule 18.4.1.

'Any activity provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity that does not meet the applicable standards.'

6.4.8 Chapter 19 - Open Space 3 Zone

Permitted activities in the Open Space 3 Zone that are relevant to the proposal include:

'Open Space 3 Zone

19.3.3 Indigenous vegetation clearance [Appealed]

19.3.5 Excavation

19.3.6 Filling of land with clean fill'

The above activities are associated with the proposed works. It is noted that while underslips and overslips would have naturally disturbed the indigenous vegetation at some sites, some vegetation may need to be purposefully cleared for the access tracks, ancillary works and to remediate slip slopes.

These activities shall be permitted without resource consent where they comply with the relevant standards. These are detailed in **Table 6-11** below.

Table 6-11: Standards that apply to activities in the Open Space 3 Zone that are relevant to the proposed activities

Relevant Standards	Compliance
19.2. Standards that apply to all permitted activities	19.2 Will not comply in all instances
19.2.1.3. A building or structure must not be sited in, or within 8m of, a river, lake, Significant Wetland, drainage channel, Drainage Channel Network or the landward toe of any stopbank or the sea.	19.2.1.3 Will not comply in all instances The road stabilisation structures, such as retaining walls, may in some instances require building consent. These structures can therefore be considered buildings and are generally permitted but are subject to setback requirements when located in zoned land adjacent to the road corridor.
19.2.2 Noise	19.2.2 Will comply
19.2.2.1 An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property: 7.00 am to 10.00 pm 50dB LA _{eq} 10.00 pm to 7.00 am 40dB LA _{eq} 70dB LAF _{max}	19.2.2.1 Will be managed to comply Any noise from the works will be in accordance with NZS 6803:1999 Acoustics – Construction Noise.
19.2.2.3 Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS 6803:1999 Acoustics – Construction Noise.	It is noted that works that will result in noise emissions between 7am to 10pm.
	19.2.2.3 Will be managed to comply Works will be managed to comply with this NZ Standard.
19.2.5 Dust	19.2.5 Will comply
19.2.5.1 There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.	19.2.5.1 Will be managed to comply Dust will be managed to comply with this standard in accordance with the Erosion and Sediment Control Plan.
19.3.3 Indigenous vegetation clearance	19.3.3 Will comply
19.3.3.1 Indigenous vegetation clearance must comply with Standards 19.3.4.1 to 19.3.4.6 (inclusive).	19.3.3.1 Will comply
19.3.3.2 The clearance of indigenous vegetation in the following circumstances is exempt from Standards 19.3.3.3 to 19.3.3.5 (inclusive): [Appealed] .	19.3.3.2 Noted Vegetation clearance is exempt from the standards 19.3.3.3 to 19.3.3.5 as any clearance associated with the proposed works is for the maintenance of the road.
(d) Where the clearance is associated with the maintenance of existing roads, forestry roads, harvesting tracks, farm tracks, fence lines, cycling tracks or walking tracks;	19.3.3.6 Will comply Vegetation clearance will not exceed 500 square metres per Record of Title.
19.3.3.6. Clearance of indigenous forest within the coastal environment must not exceed 500m ² per Record of Title in any 5 year period. [Appealed] .	19.3.3.7 Will comply Clearance of vegetation will not exceed the limits specified in this standard.

<p>19.3.3.7. Clearance of indigenous vegetation within the coastal environment, per Record of Title, must not exceed: [Appealed].</p> <p>(a) 1,000m² in any 5 year period where the average canopy height is between 3m and 6m;</p> <p>(b) 5,000m² in any 5 year period where the average canopy height is below 3m, except for the following species where clearance in any 5 year period must not exceed:</p> <p>(i) 250m² of indigenous sub-alpine vegetation;</p> <p>(ii) 50m² of tall tussock of the genus <i>Chionochloa</i></p>	
<p>19.3.5 Excavation</p> <p>19.3.5.1 There must be no excavation in excess of 1000m³ on any land with a slope greater than 20 degrees within any 24 month period. This standard excludes;</p> <p>(a) excavation undertaken for the maintenance of farm tracks; or</p> <p>(b) digging of postholes for the construction of fences</p> <p>19.3.5.2 Excavation must not occur on any land with a slope greater than 35°.</p> <p>19.3.5.3 Excavation must not be in, or within:</p> <p>(c) 8m of a river (except any ephemeral river when not flowing), lake or the coastal marine area;</p> <p>(d) 8m of a Significant Wetland or 30m of a river within a Water Resource Unit with a Natural State classification;</p> <p>(e) 8m of the landward toe of a stopbank and the depth of any excavation beyond that may not exceed 15% of the distance from the stopbank.</p> <p>19.3.5.4 The excavation must not occur in a Soil Sensitive Area identified as loess soils.</p> <p>19.3.5.5 Excavation must not be within such proximity to any abstraction point for a drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.</p> <p>19.3.5.6 Excavation must not be within a Level 2 or 3 Flood Hazard Area, or within the Level R Flood Hazard Area in the vicinity of Condors Overflow.</p>	<p>19.3.5 Will not comply in all instances</p>
	<p>19.3.5.1 Will not comply in all instances The work may involve earthworks greater than 1000m³ on land steeper than 20°.</p>
	<p>19.3.5.2 Will not comply in all instances Excavation may be required on slopes greater than 35°.</p>
	<p>19.3.5.3 May not comply (a) Will not comply – earthworks will be within 8m of the stream at some sites (b) May not comply – excavation within 8 metres of a Significant Wetland cannot be ruled out to repair all faults within the network. However, there are no Significant Wetlands near the complex sites within the project area. (c) Will comply</p>
	<p>19.3.5.4 Will comply There are no areas of loess soils within the project area.</p>
	<p>19.3.5.5 Will comply There are no nearby drinking water supplies.</p>
	<p>19.3.5.6 May not comply in all instances There are some areas within the Port Underwood zone that have flood hazard overlays, and excavation may be required to remediate the roads.</p>

<p>19.3.5.7 There must be no excavation in excess of 500m³ per Record of Title located within the following Outstanding Natural Features and Landscapes within any 12 month period:</p> <ul style="list-style-type: none"> (a) Bryant Range, Upper Pelorus Area, Richmond Range Conservation Estate and Red Hills Range; (b) Mt Duncan, Mount Rutland and Mount Cullen; (c) Limestone Coastline; (d) Marlborough Sounds; (e) The Main Divide and Leatham Conservation Area; (f) Inland Kaikoura Range; (g) Molesworth Station and Upper Clarence; (h) Wairau Lagoons. <p>This does not apply to excavation for the purposes of maintaining existing tracks, fences, races, and drains where their location and physical extent does not change; or the maintenance and replacement, and minor upgrading of network utilities.</p> <p>19.3.5.8 There must be no excavation in excess of 10m³ within a Groundwater Protection Area.</p> <p>19.3.5.9. Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except any ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area.</p> <p>19.3.5.10 Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.</p> <p>19.3.5.11 Water control measures and sediment control measures must be designed, constructed and maintained in an area disturbed by excavation, such that the area is stable and the measures remain effective after completion of the excavation. The diameter of a culvert used to drain any excavation must not be less than 300mm.</p> <p>19.3.5.12 Excavation must not cause any conspicuous change in the colour or natural clarity of any flowing river after reasonable mixing, or the water in a Significant Wetland, lake or coastal marine area.</p>	<p>19.3.5.7 Will not comply in all instances In the Port Underwood zone there are locations where there is an Outstanding Natural Feature and Landscape overlay either at the site or adjacent to the site. It cannot be guaranteed that excavation would be limited to 500 cubic metres.</p> <p>19.3.5.8 Will comply There are no groundwater protection areas within the zone.</p> <p>19.3.5.9 Will not comply in all instances Machinery will need to work within 8 metres of a river to remediate sites and repair the roads.</p> <p>19.3.5.10 Will be designed to comply</p> <p>19.3.5.11 Will comply ESC measures will be put in place during the works – and will be designed to comply.</p> <p>19.3.5.12 Will be managed to comply This will be managed in accordance with the Erosion and Sediment Control Plan.</p> <p>19.3.5.13 May not comply in all instances The works should in most instances maintain the existing flow path of water. The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.</p>
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19.3.8.13 Excavation must not cause water to enter onto any adjacent land under different ownership.	
19.3.6 Filling of land with clean fill. 19.3.6.1 Filling in excess of 1000m ³ must not occur within any 24 month period. 19.3.6.2 Fill must not be placed over woody vegetation on land with a slope greater than 10°. 19.3.6.3 Filling must not be in, or within: (d) 8m of a river (except an ephemeral river when not flowing), lake or the coastal marine area; (e) 8m of, a Significant Wetland or 30m of a river within a Water Resource Unit with a Natural State classification; (f) 8m of the landward toe of a stopbank. 19.3.6.4 The filling must not occur on a slope greater than 7.5° if the filling is within a Soil Sensitive Area identified as loess soils. 19.3.6.5 Filling must not be within such proximity to any abstraction point for a drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply. 19.3.6.6 A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling. 19.3.6.7 Water control measures and sediment control measures must be designed, constructed and maintained in a fill area, such that the area is stable and the measures remain effective after completion of the filling. The diameter of any culvert used to drain any fill areas must be less than 300mm. 19.3.6.8 When the filling has been completed, the filled area must be covered with at least 200mm of soil, and sown down with a suitable vegetative cover or other means to achieve a rapid vegetative cover. 19.3.6.9 Filling must not be within a Level 2 or 3 Flood Hazard Area. 19.3.6.10 There must be no filling in excess of 500m ³ per Record of Title located within the following Outstanding Natural Features and Landscapes within any 12 month period:	19.3.6.1 Will not comply in all instances
	19.3.6.1 May not comply in all instances Filling in excess of 1000 cubic metres may be required to remediate some of the sites.
	19.3.6.2 Will not comply in all instances This cannot be excluded but generally will not occur.
	19.3.6.3 Will not comply in all instances Deposition of clean fill material during the works will be within 8m of the stream so will not comply with (a).
	19.3.6.4 Will comply There are no areas of loess soils within Open Space 3 Zoned land in the project area.
	19.3.6.5 Will comply There are no nearby drinking water supplies.
	19.3.6.6 Will comply Imported fill will be used for the construction of the road repair and the reinforced soil slopes. This will be stabilised on completion of the works
	19.3.6.7 Will comply ESC measures will be put in place during the works – and will be designed to comply.
	19.3.6.8 Will comply All fill areas appropriate for revegetation (i.e. not retaining walls) will be topsoiled and vegetated.
	19.3.6.9 Will not comply in all instances There are some areas within the Port Underwood zone that have flood hazard overlays, and fill may be required to remediate the roads.
	19.3.6.10 Will not comply in all instances In the Port Underwood zone there are locations where there is an Outstanding Natural Feature and Landscape overlay either at the site or adjacent to the site. It cannot be guaranteed that fill would be

(a) Bryant Range, Upper Pelorus Area, Richmond Range Conservation Estate and Red Hills Range (b) Mt Duncan, Mount Rutland and Mount Cullen; (c) Limestone Coastline; (d) Marlborough Sounds; (e) The Main Divide and Leatham Conservation Area; (f) Inland Kaikoura Range; (g) Molesworth Station and Upper Clarence; (h) Wairau Lagoons. This does not apply to filling for the purposes of maintaining existing tracks, fences, races, and drains where their location and physical extent does not change; or the maintenance and replacement, and minor upgrading of network utilities. 19.3.6.11. The filling must not cause any conspicuous change in the colour or natural clarity of any flowing river after reasonable mixing, or the water in a Significant Wetland, lake or coastal marine area. 19.3.6.12 Filling must not cause water to enter onto any adjacent land under different ownership.	limited to 500 m ³ in these locations to remediate the roads.
	19.3.6.11 Will comply This will be managed in accordance with the Erosion and Sediment Control Plan.
	19.3.6.12 May not comply The works should in most instances not change the existing flow path of the stream. The works may alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.

As the proposed activities (buildings, vegetation clearance, excavation, clean fill) cannot meet the relevant permitted standards, a consent with a **discretionary activity** status is required under Rule 19.4.1.

'Any activity provided for as a Permitted Activity, Controlled Activity or Restricted Discretionary Activity that does not meet the applicable standards.'

6.5 MSRMP Rules Assessment

The following rules from the MSRMP are considered relevant as they are equivalent to those rules in the PMEP that have been appealed.

6.5.1 Chapter 26 General Rules

26.1.6 River Control and Drainage, and Road Works

Table 6-12: Standards that apply to activities for river disturbance works that are relevant to the proposed activities. (PMEP Rules Appealed).

Relevant Standard	Compliance
26.1.6.1 Permitted Activities - River Control and Drainage, and Road Works River control and drainage works, and road works within the beds and banks of rivers are a Permitted Activity in all zones when carried out by	26.1.6.1 Will comply Works will be undertaken by the roading authority: Marlborough Roads. Disturbance of the bed of the watercourse during construction appears

<p>a local authority exercising its powers under the Soil Conservation and River Control Act 1941 or the Land Drainage Act 1908; or roading authority operating under the Transit New Zealand Act 1989, providing the following conditions are met:</p>	<p>to be permitted. Alternatively, the area that requires excavation is unzoned in many instances, meaning that there are no specific rules that apply.</p> <p>The activity is considered discretionary under Sections 87B and 13 of the RMA 1991.</p>
<p>26.1.6.1.1 Gravel, Sediment or Debris Removal The removal of gravel or sediment or debris is a Permitted Activity provided that the following conditions are met:</p> <ul style="list-style-type: none"> a) The removal of gravel or sediment by under water dredging occurs within braided rivers; b) Dredging shall not be carried out more than once in any 12 month period, per river reach. The Nelson Marlborough Fish and Game Council and Department of Conservation shall be consulted prior to dredging taking place; c) All reasonable steps shall be taken to avoid discoloration of the water; d) Excavators shall operate from the riverbank or any non wetted area within the river bed; e) Dredging shall be staged to retain suitable ecological habitat; f) Dredged material shall be retained on adjacent banks to provide opportunity for animals to re-enter the river, for a period not less than 12 hours; g) Dredging shall not be carried out between 1 August and 30 November in any year; and h) The size and shape of drainage channels shall not be substantially altered. 	<p>26.1.6.1.1 Will comply Sediment removal will occur and this will be managed through implementation of the Erosion and Sediment Control Plan.</p>
<p>26.1.6.1.5 Rock, Rubble or Gabion Structural Bank Protection Rock may be used for protecting river bank edges, training banks or stopbanks as a Permitted Activity provided that the following conditions are met:</p> <ul style="list-style-type: none"> a) Rock from damaged or redundant structures may be recovered from the riverbed; b) All reasonable steps shall be taken to minimise discoloration of water; c) Where concrete or masonry rubble is used, any exterior reinforcing steel shall be cut flush with the surface of the concrete and removed from the site; d) For slow-flowing and/or urban rivers continuous lengths exceeding 50 metres of vertical gabion bank walls shall be avoided, by interposing some gently sloping sections which allow bird access to the river and habitat diversity; e) Motor vehicle bodies, old machinery and scrap iron shall not be used for bank protection works; and 	<p>2.1.6.1.5 Will comply This is covered in the AEE (Section 7 of this document).</p> <p>The proposed works will comply with standards (a) – (f). Discoloration of water will be managed through implementation of the Erosion and Sediment Control Plan.</p>

f) Except in urgent situations, placement of rock rip-rap in estuarine areas shall not take place between 1 August and 30 November in any year.	
26.1.6.1.8 Repair of Culverts and Floodgates Culverts and floodgate structures may be repaired or reconstructed in their original location as a Permitted Activity provided that the following conditions are met: a) Provision for passage of fish at all tidal sites nominated by the Department of Conservation shall be made; and b) Any temporary coffer dams constructed must be removed at the completion of culvert maintenance.	26.1.6.1.8 Will not comply in all instances As discussed in the AEE, provision for fish passage cannot be guaranteed in all instances given the current nature of the culverts and topography of the sites.

In terms of culvert maintenance, fish passage cannot be achieved in all instances. There appears to be no activity status associated with non-compliance with this standard. The activity is therefore assessed as **discretionary** under Sections 87B and 13 of the RMA 1991.

Disturbance of the bed of the watercourse during construction appears to be permitted under the MSRMP. Alternatively, when the area that requires excavation is unzoned (in many instances), there are no specific permitted activity rules that cover this. The activity is therefore assessed as **discretionary** under Sections 87B and 13 of the RMA 1991.

6.5.2 Chapter 30 Sounds Residential Zone Rules

30.1.5.3 Vegetation Clearance

Table 6-13: Standards that apply to vegetation clearance (PMEP Rule Appealed).

Relevant Standard	Compliance
30.1.5.3.1 Vegetation Clearance is a permitted activity where: d) Vegetation Clearance sites will be revegetated within 24 months of the end of the operation, to a level where the amount of bare ground is no more than 20% greater than prior to vegetation clearance taking place. h) No more than 0.2 hectares of indigenous forest may be cleared per certificate of title within a 12-month period.	30.1.5.3.1 Conditions will generally be met, however the works may not meet standards 30.1.5.3.1 d) and h) in some instances. Given the potential extent of vegetation clearance necessary to install access, site stabilisation structures, and undertake ancillary works, the proposal cannot be guaranteed to comply with these requirements in all instances.

Indigenous vegetation clearance is therefore assessed as a **discretionary activity** under rule 30.4 bullet point 1. WARMP Rules Assessment

The following rules from the WARMP are considered relevant as they are equivalent to those rules in the PMEP that have been appealed.

6.5.3 WARMP Chapter 27 General Rules

Table 6-14: WARMP Chapter 27 General Rules

WARMP rule 27.1.7.1 states: Unless expressly limited elsewhere, the diversion of water for irrigation purposes is a Permitted Activity where the following conditions can be met:

Relevant Standard	Compliance
27.1.7 Rules for the Diversion of Water - Other Than River Control and Drainage Channel Work	27.1.7 Will not comply as water is not being diverted for irrigation purposes.
27.1.7.1.1 The quantity of water to be diverted is not greater than that permitted in Rule 27.1.2.1	27.1.7.1.3 Will be managed to comply.
27.1.7.1.2 The diversion will not deprive others downstream of existing water uses	
27.1.7.1.3 Operations shall be timed to recognise the needs of fish spawning and migration for both native and introduced fish and riverbed nesting birds.	
27.1.9.2 Standard Conditions Applying to All Discharges to Water The following standard conditions apply to all Permitted and Controlled activities. For completeness they are cross referenced at the end of all rules for Permitted and Controlled activities, and are referred to as “the standard conditions”. No discharge shall cause erosion at, or downstream of, the discharge point. No discharge shall alter the natural course of its receiving river or stream. Any discharge point and its associated structures shall be maintained in a condition such that it is clear of debris and structurally sound. Meets water clarity standards defined in Appendix J, after reasonable mixing. That the discharge does not cause flooding on private land	27.1.9.2 Will not comply in all instances The proposed drainage solutions will not achieve this in all instances but will be designed to avoid worsening existing situations. The changes in landform will alter the runoff patterns through various sites and erosion and minor flooding of some private land cannot be precluded given the scale of the project.

Rule 27.1.7.2 states: *Application must be made for a resource consent for a Discretionary Activity for the following:*

- *Any Permitted Activity involving the diversion of water which cannot meet the conditions specified for a Permitted Activity.*
- *Any other diversion.*

Water is not being diverted for irrigation purposes. As such, resource consent is required for a discretionary activity.

6.5.4 WARMP Chapter 30 Rural Zone Rules

Any equivalent WARMP Rural Zone Rules to the appealed PMEP Rural Environment Zone Rules have been addressed below in **Table 6-15**.

Table 6-15: Standards that apply to activities in the Rural Zone (appealed PMEP rules).

Relevant Standard	Compliance
30.1.8.13 General Rules Relating to Dust Emissions 30.1.8.13.1 Any person undertaking an activity resulting in the emission of dust shall adopt the best practicable option to avoid adverse effects resulting from objectionable dust emissions on the receiving environment.	30.1.8.13 Will comply Dust will be managed to comply with this standard in accordance with the Erosion and Sediment Control Plan.
30.1.6.1 Indigenous Vegetation Clearance 30.1.6.1.3 The clearance of the following is excluded from the requirements in Rule 30.1.6.1.2 above: d) Where the clearance is associated with the maintenance of an existing road, forestry road or farm track.	30.1.6.1 Will comply 30.1.6.1.3 Will comply Vegetation clearance is exempt from the standards 30.1.6.1.2 as any clearance associated with the proposed works is for the maintenance of the road
30.1.7.3 Excavation and Tracking 30.1.7.3.3 On land greater than 20° slope no more than 1,000 m ³ may be excavated in any two year period.	30.1.7.3 Will not comply in all instances 30.1.7.3.3 Will not comply in all instances The work may involve earthworks greater than 1000m ³ on land steeper than 20°.

Excavation is therefore assessed as a **limited discretionary activity** under Rule 30.3.1 bullet point 17 (as it may not meet controlled activity standards).

6.6 Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)

6.6.1 Culverts

The NES-F regulations came into force on 3 September 2020. The NES-F contains permitted activity standards relating to the installation of culverts and the maintenance and operation of specified infrastructure and other infrastructure, therefore the proposed activity must be assessed against the NES-F.

Regarding culverts, section 70(1) of the NES-F states that the placement, use, alteration, extension or reconstruction of a culvert in, on, over, or under the bed of any river or connected area is a permitted activity if it complies with the conditions in 70(2).

These are as follows:

(2) The conditions are that—

- (a) the culvert must provide for the same passage of fish upstream and downstream as would exist without the culvert, except as required to carry out the works to place, alter, extend, or reconstruct the culvert; and
- (b) the culvert must be laid parallel to the slope of the bed of the river or connected area; and

- (c) the mean cross-sectional water velocity in the culvert must be no greater than that in all immediately adjoining river reaches; and
- (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 $w > 3$, $s \geq (1.2 \times w) + 0.6$; and
- (e) the culvert must be 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; and
- (f) the bed substrate must be 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; and
- (g) the culvert provides for continuity of geomorphic processes (such as the movement of sediment and debris).

The replacement of culverts and the repair of culverts will be required as part of the repairs within the Port Underwood zone. Improving fish passage is an outcome sought by the applicant during these repairs or replacements, however, it will only occur in locations that is achievable or practical. Watercourses in the zone that have been assessed as having moderate to high values will be the main focus for fish passage (refer to section 3.3 above). It is considered that the culvert replacement may not in all instances meet all of the above permitted activity standards. Consent is therefore required as a **discretionary activity** under regulation 71(1) of the NES-F.

6.6.2 Wetlands

It is considered possible that, within the Port Underwood zone, there may be a wetland within 100 metres associated with significant wetlands in the Rarangi area and Pukaka Valley and therefore an assessment under the NES-F has been provided. As works may occur within 0-100 metres of a wetland.

Regarding the maintenance and operation of specified infrastructure, section 46(1-3) states that vegetation clearance, earthworks or land disturbance, or the taking, use, damming, diversion or discharge of water within or within certain distances of a natural wetland is permitted if the activity complies with the conditions in 46(4).

These are as follows:

- (4) The conditions are that—
 - (a) the activity must comply with the general conditions on natural wetland activities in regulation 55 (but regulation 55(2), (3)(b) to (d), and (5) do not apply if the activity is for the purpose of maintaining or operating hydro-electricity infrastructure); and
 - (b) the activity must not be for the purpose of increasing the size of the specified infrastructure or other infrastructure; and
 - (c) the activity must not result in the formation of new pathways, boardwalks, or other accessways; and
 - (d) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not occur over more than 500m² or 10% of the area of the natural wetland, whichever is smaller; and
 - (e) if the activity is earthworks or land disturbance—

- (i) trenches dug (for example, to maintain pipes) must be backfilled and compacted no later than 48 hours after being dug; and
- (ii) the activity must not result in drains being deeper, relative to the natural wetland's water level, than they were before the activity.

With the measures in place, particularly with regard to the ESCP and ESMP, it is considered highly likely that the above permitted activity standards should be met with regard to any activities within or near a natural wetland in the Port Underwood zone.

However, in the event that a culvert replacement is required within a 100m setback of a wetland it is considered possible that during a culvert replacement a larger culvert may be installed, which may not meet Regulation 46(4)(b). Therefore, consent is sought to provide for this possible event.

Consent is therefore required as a **restricted discretionary activity** under Regulation 47 of the NES-F.

6.7 Activity Status Summary

The proposed activity is considered against the relevant rules of the PMEP, and where an outstanding appeal exists, assessment has also been undertaken under the MSRMP and WARMP.

In summary, consent is sought broadly across the zone for the following activities, which have a bundled application **Discretionary Activity** status:

- **S9, Land Use – Land Disturbance:**
 - *To undertake excavation and filling for road repair works and stabilisations of adjoining land*
- **S9, Land Use – Activity:**
 - *Indigenous vegetation removal for site access and for stabilisation of slips*
 - *To place structures (retaining and stabilisation) with 8m of watercourses*
- **S13, Land Use and NES-F – River Surface or Bed Activities:**
 - *To replace and repair stream crossings and associated road protection structures*
 - *To install culverts that in some instances do not meet Regulation 70(1) of the NES-F*
 - *To disturb the bed and riparian areas of watercourses and wetlands in instances where Regulation 46(4)(b) of the NES-F cannot be met.*
 - *Occupy the bed of watercourse with structures*
 - *To undertake maintenance of structures in waterways*
- **S14, Water Permit – Divert Water:**
 - *To divert water during construction and long term diversion as a result of installing stream and erosion protection structures.*
- **S15, Discharge Permit:**
 - *To discharge sediment laden water and stormwater to surface water bodies associated with repairing the roads*

Consent is also sought to address any effects considered 'ongoing effects' relating to s330B matters of the RMA. This relates to emergency works provided for under the RMA which are

undertaken following the event to stabilise and fix sites. The s330B associated consenting matters are considered Discretionary Activities, the same status as the proposed activities.

7 Assessment of Environmental Effects

Section 88(2) and Schedule 4 of the RMA requires that an application must include the information relating to the activity, including an assessment of the activity's effects on the environment that contains such detail as corresponds with the scale and significance of the effects that the proposed activity may have on the environment, and the ways in which any adverse effects may be avoided, remedied, or mitigated.

In this case, the key actual and potential effects are considered those that relate to:

- Positive effects
- Construction
- Transportation
- Public access and recreational values
- Landscape and amenity
- Water quality
- Diversion
- Hazardous substances
- Terrestrial ecology
- Aquatic ecology
- Wetlands
- Coastal Marine Area
- Cultural values
- Archaeology

It should be noted that the conditions volunteered in **Appendix G** have been offered for the purpose of providing further mitigation against the potential effects discussed in this section.

7.1 Positive effects

The roading network in Marlborough is recognised as regionally significant infrastructure, and the roads in the Marlborough Sounds are an essential lifeline utility for local communities. The proposed works are intended to repair the roads, stabilise the banks, and reduce further erosion. The proposed works will have positive effects by restoring and ensuring a safe and resilient roading network. This in turn improves access for local communities. Carrying out these works without undue delay is critical to achieving these positive effects and contributes to a more resilient road network in Marlborough.

The proposed works will allow for necessary and critical repairs to the Port Underwood zone and contribute to the safe and efficient operation of the roading network in Marlborough. This is a significant positive effect.

7.2 Construction

As with all construction projects on the road, there are short-term construction effects that occur. Road works are common occurrences, and it is not out of character for this to occur in this modified local road environment. These construction effects may include a temporary increase in construction vehicle movements and a short-term increase in construction-related noise and dust effects. These will occur at various sites (faults) within the zone until the road is repaired. These effects are temporary in nature and can be avoided or mitigated through routine site management measures by the contractor. For example, construction noise can be managed to not exceed the limits stated in the PMEP. Dust will be managed onsite by applying water to exposed earth and vehicle tracks via water carts or sprinklers. Progressive stabilisation will also be

applied to completed work areas and exposed earth that will remain untouched for extended periods.

Works (and therefore noise) are anticipated to occur between 7am and 10pm on weekdays, with some works occurring on the weekend if necessary.

The Marlborough Roads Erosion and Sediment Control Plan (ESCP) for the Port Underwood zone has been attached as **Appendix D**. This document details construction methodology, access provisions, and appropriate dust, erosion and sediment control measures that will be in place to reduce any effect that the construction activities may have.

Overall, the effects for the receiving environment are less than minor.

7.3 Transportation

As far as possible, Port Underwood Road, Tumbledown Bay Road, and associated side roads will remain open during the repair works. The scale and timeframe to complete the works requires that for the most part the roads will remain open, and only close temporarily if there are no other options or for the safety of the public.

The works will result in increased numbers of heavy vehicles along Port Underwood Road and associated side roads when the road is being repaired. While this may have some impact on adjacent landowners, the movement of heavy vehicles along the roads are within the roads intended purpose. The temporary increase of heavy vehicles along the roads should have an impact that is no more than minor.

Traffic Management Plans will be in place at each fault to manage the potential effect during construction works. These plans will outline the procedures and standards that must be complied with at each works site.

The ongoing and safe operation of Port Underwood Road and associated side roads is an important consideration during works to repair the roads.

7.4 Public access and recreational values

The Port Underwood area is used extensively for land based recreational activities, including walking, hiking, and cycling.

In terms of effects on recreation, there will be measures in place to ensure each works site is safe for any persons in the vicinity. This may include exclusion areas where persons have limited or prohibited access. Any adverse recreational effects will be localised and short-term in nature, with the works in the long-term providing for restored safe and efficient access along roads in the Port Underwood zone.

Works will not cause any long-term effects on the natural character of the site area as the works have been designed so that the remediated site mimics the conditions of the site prior to the storm event. Over time the sites will weather and naturalise.

Any adverse effects will be mitigated by the temporary duration of works, the implementation of appropriate dust, erosion, and sediment controls (refer to the ESCP for the Port Underwood zone, attached as **Appendix D**), and with the area being remediated upon completion of works at each fault.

7.5 Landscape and amenity

A Landscape Management Plan (LMP) was developed for the five zonal consents associated with the July 2021 event. The LMP for these five zonal consents considered the management of landscape effects associated with reinstatement works in the high amenity Marlborough Sounds

environments. The LMP was prepared to support the resource consent applications by providing guidance on ways to address anticipated effects on landscape and visual amenity. The LMP developed for those consents contains recommendations relating to site rehabilitation including site preparation, topsoil re-use, plant selection procedures, planting programmes and maintenance/monitoring schedules. Given the similarity in environments between those five zonal consents already submitted to Council, as well as the similarity in the nature and scale of damage to the road network, the key mitigation measures from the LMP remain relevant to the current application. As such, the ESMP included as **Appendix C** has been updated to reflect these key measures.

There may be short-term effects on visual amenity during works, due to the machinery required to remediate slips and carry out road repairs. There will also be noise associated with the works.

The faults are generally located within rural areas with few nearby dwellings. The noise and visual amenity effects associated with repairing the road will be similar to that experienced during typical road works along the roads, although potentially of longer duration.

As the works are related to restoring the road back to its capacity prior to the July 2021 and August 2022 events, the surrounding environment is already modified with the road being a feature in the existing landscape.

Parts of the Port Underwood zone are identified as being within the Marlborough Sounds High Amenity Landscape overlay in the PMP. There are also several faults located directly adjacent to the High and/or Very High Coastal Natural Character Rating overlay. There is provision and discretion for the consent holder to provide higher levels of amenity through landscaping should this be deemed appropriate. However, the Rounding Authority must balance the level of amenity provided within the overall budget of restoring a large road network.

In order to undertake the works to restore the road, machinery may need to access below or above the road to repair an underslip or overslip. This may involve the creation and removal of an access track. All efforts will be made to ensure this does not result in an adverse effect on amenity of the area, and any access tracks created will be remediated, topsoiled, and re-planted to prevent pest species from establishing.

It is considered that as long as the works are carried out in accordance with the measures within the ESCP contained within **Appendix D**, and the ESMP contained within **Appendix C** that the effects on the general landscape and Amenity Values will be sufficiently minimised and the natural character of the environment will be preserved.

7.6 Water quality

The stormwater discharge permit applied for relates to discharges generated during the road repair/reinstatement works. The main contaminant of concern will therefore be suspended solids originating from exposed surfaces and construction activities.

The works are adjacent to the Coastal Environment which has a number of ecological and recreational values. It is therefore important during construction to minimise sediment discharges into water.

The storm event resulted in a large number of exposed slip faces in the Port Underwood area, which these works aim to remediate. The sediment arising from those exposed slip faces is likely to be of a larger scale than that generated by the proposed works. It is noted that without the proposed remediation works, these areas would have the potential to discharge large quantities of sediment into adjacent watercourses following future rain events, as they have been doing since the storm event. However, the discharge of sediment-laden stormwater from cut areas will occur as part of the works and contribute to the total discharges from the site. Most of the stormwater

from these areas will be permitted under the relevant regional/district plans and discharged along the legal road or onto adjacent land below the road network.

The proposed disturbances anticipated as part of the construction works have the potential to mobilise and discharge sediment into nearby watercourses and wetlands which would result in adverse effects on downstream freshwater quality as well as water quality within the adjacent coastal marine area.

Typically, runoff from the uphill side of the road is collected through a series of roadside drains which is then directed through culverts under the road and discharged downslope. These are ephemeral and sometimes permanent drainage channels that flow predominantly during heavy rainfall events. Typically, following discharge from the culverts, runoff travels down the banks towards the coastal area.

Sediment control measures will vary from site to site with the specific conditions at each site considered before providing a solution. Typical control measures are listed in Section 4 of this report.

The remediation works will be carried out in accordance with the attached Erosion and Sediment Control Plan (ESCP) (**Appendix D**) which includes details for site-specific erosion and sediment control measures including silt fences and clean and dirty water diversion channels. Stormwater runoff from landside earthworks and construction activities will be managed to minimise the potential for sediment to enter waterways. These may include the use of sediment traps and cut-off drains to divert stormwater away from exposed land disturbance areas. These will be in place before excavations commence and will only be removed after the site has been stabilised. All areas of disturbed land will be stabilised following works to provide stability and prevent ongoing sediment discharges from exposed earth.

Any potential effects from stormwater run-off or sediment discharges resulting from the works are anticipated to be no more than minor, with appropriate practises in place as per the ESCP. Compared with naturally high level of sediment in the watercourses of the Port Underwood area, sediment discharged during the weather event, and sediment generated by subsequent events, discharges as a result of works should be insignificant and not discernible from that already occurring.

According to current best practice the two most critical factors in minimising the sediment discharge of this nature are timing and duration of the works. If this consent is granted, it is recommended that it be a condition of the consent that works are undertaken during a period of dry soil conditions and low rainfall frequency. The ESCP sets out contingency measures to follow if it is forecasted for rainfall during construction.

It is also noted that incidental discharges to land will be managed to meet the permitted standards for discharges to land. A number of conditions have been volunteered to avoid, remedy and mitigate the potential effects on water quality as a result of the works. Refer to **Appendix G** for these volunteered conditions.

The overall environmental effect on water quality will be mitigated through implementation and adherence to a comprehensive ESMP and ESCP.

7.7 Diversion

It is possible that minor realignment of watercourses may be required as a result of the road remediation works and installation of rock protection. This will be avoided wherever possible.

In areas where road remediation works are required within and adjacent to waterways, water will be temporarily diverted around the worksite to minimise the mobilisation of sediment from the bed and to allow machinery to work outside of flowing water. Diversion measures may include the

construction of diversion channels, bunds, and piping. Each watercourse will be assessed to determine the most appropriate diversion measure for that site. Section 7.10 in this report further considers the effects on aquatic ecology and fish passage.

Construction of diversion structures are likely to take less than one day to complete. Once the works are complete, any diversion structures would be removed and the bed of the watercourse returned to pre-works conditions.

During any diversion, the stream channel capacity to convey flood flows, floating debris and/or sediment may be temporarily reduced depending on the capacity of the diversion measure. To address this, it is proposed that works would be scheduled to occur during dry/low flow periods based on the long-range weather forecast, and in accordance with the measures contained in the ESCP. During this time, the streams should have predictable and/or low flow where instances of flooding, floating debris and sediment would be minimal.

Following completion of works at each site, the adjacent diversion measure will be removed, and flow will be redirected back into the original channel, unless it is unavoidable due to installed rock protection. In these instances, the flow will be redirected as far as possible into the original channel. All channels and remaining diversion bunds and channels will be recontoured to mimic pre-storm conditions. This will ensure that the movement of water within the stream(s) are/is unaltered as much as possible to prevent bank scouring and retain existing flow paths.

The use of machinery in the stream beds/wetted channels will be minimised as much as possible. In some instances, disturbance of the bed can be done by hand. Some works using an excavator may occur (such as sump formation) though the excavator will reach down into the stream bed from the road to minimise disturbances.

7.8 Hazardous substances

Hazardous substances such as fuel and hydraulic fluids will be required to maintain machinery during the works. All hazardous substances will be stored on land away from water, and no refuelling of machinery will occur within 20 metres of any waterbody. A condition of consent has been volunteered to this effect.

Spill kits will be kept onsite during the works and machinery will be checked regularly for any leaks or damage.

With the above measures in place any effect of hazardous substances is considered less than minor.

7.9 Terrestrial ecology

The Marlborough Sounds Area has known ecological and biodiversity values, including providing habitat for numerous native fish and native birds. There is extensive native flora throughout the zone, however, as a result of the modified nature of the receiving environment, there is also extensive gorse and broom present, especially directly adjacent to the road where the works will be occurring.

Incorporating restoration guidelines into the ESMP can be done so that any adverse effects could be avoided, remedied, or mitigated as far as possible. Recommended strategies to reduce the level of impact are detailed within the EIA and include avoiding unnecessary disturbances, exclusion periods for at risk bird/lizard species, minimising vegetation clearance, utilising best practice methodologies, and appropriate site remediation.

The majority of the Port Underwood zone is identified under the PMEP as being within the Sounds Ecological District. The western extent of the zone is identified as being within the Pelorus Ecological District of the PMEP. However, there is little information on these ecological districts in

the PMEP. There are areas that have been identified as having a Threatened Environment overlay in the Port Underwood zone under the PMEP. Under the MSRMP there are several areas within the zone that are identified as having ecological value.

Site clearance and land disturbance will be required to establish access and to remediate the underslips and overslips. Where any works are undertaken to remediate a fault and fix the road, any disturbed areas will be contoured to match the surrounding environment and planted in appropriate native species. It is also anticipated that a degree of natural revegetation will take place at the sites, as slip events in the Sounds are not uncommon. In order to prevent the spread of gorse and broom, it is volunteered that any removed gorse and broom will be disposed of appropriately. The July 2021 EIA recommendations will form the basis for site specific mitigation, if required, at each fault in the zone.

7.10 Aquatic ecology

The flood event resulted in damage to a number of culverts along Port Underwood Road, Tumbledown Bay Road, and side roads. As part of this proposal any damaged culverts will be replaced or repaired. In many instances this will have been completed as part of emergency works.

In order to replace or repair culverts the methodology in Section 7.7 above will be undertaken to divert water around the works site and avoid the mobilisation of sediment.

Prior to each diversion, if fish are identified then works will be paused and an appropriately experienced person to be contacted to assist in removal prior to the works recommencing.

Any replacement culverts will be placed in the same direction and at the same grade as the existing riverbed. The replaced and upgraded culverts will all have invert that are embedded in the stream to ensure adequate ongoing fish passage. All temporary diversion channels will also be designed to maintain fish passage through the site during stream works. If pipes are used to divert water during works fish screens would be used to prevent fish passing through those pipes. Any diversion pipe would only be in place for as long as works are required and will be removed following works being completed at each site. The diversion pipes would temporarily impede fish passage, however in the long-term fish passage would not be adversely affected at these sites.

Replacement culverts may provide improved fish passage compared to existing culverts if this is practicable for the site, this is described more in detail in Section 3.3. Marlborough Roads have prepared a summary document on culvert replacements which provides information on culverts that need to be replaced along identified waterways (NZ Topographic map) in the Port Underwood zone. This summary document is attached as **Appendix E**.

The use of erosion and sediment control measures as outlined in the ESCP will mitigate the effects of sedimentation on aquatic ecology. All machinery will be cleaned and checked for pest species prior to entering a watercourse as a further measure to maintain instream ecological functioning.

The storm event caused large amounts of sediment mobilisation across the project area as well as creating faults and blockages within various culverts which may have impeded passage for instream aquatic life. Whilst the works themselves may affect aquatic ecology these effects will be temporary in nature and managed for each specific site. Once installation is complete, passage will be maintained and, if possible, improved. It is considered that without the proposed remediation works, the long term effects would be more adverse than those arising from the works.

Once completed, the works are intended to improve bank stability and decrease erosion. This will in the longer term reduce the amount of sediment that is able to mobilise and enter waterways and the coastal marine area, having a positive effect on water quality, health, and ecology.

No water is proposed to be taken for any purpose, therefore normal stream flows will be able to continue downstream, and the hydraulic capacity of the watercourses will remain the same.

7.11 Wetlands

While all efforts will be made to avoid works near and within wetlands, it cannot be guaranteed in all instances. It is noted that under the NES-F the works near a wetland are permitted where they meet the permitted activity standards and the infrastructure is considered specified infrastructure.

However, it is possible that a larger replacement culvert than existed previously may be installed at a fault site. This means it would technically require consent under the NES-F, as Regulation 46(4)(b) will not be complied with.

It is noted that in general works will be on steep slopes and within road reserve, and it is unlikely that there will be any wetlands near the works. Nonetheless, as there are significant wetlands within the Port Underwood zone it cannot be ruled out that works may be required closer than 8 metres to a Significant Wetland and on zoned land. However, it should be noted that NES-F requires differ to other plan requirements.

Works within and within close proximity to natural wetlands may be required to repair landslips and culvert failures. These works have the potential to result in increased sedimentation and the loss of wetland vegetation.

In areas where wetlands cannot be avoided works will be done in a manner that minimises bed disturbances and the loss of wetland extent. A condition of consent has been volunteered which requires that any works within wetlands shall be the minimum necessary to facilitate and complete the works.

The effects of any sediment discharge to wetlands will be localised and temporary in nature occurring for a short time during works. The implementation and monitoring of the erosion and sediment control measures required by the ESCP will contribute to mitigating the effects of wetland sedimentation.

Water diversions have the potential to alter catchment hydrology and the movement of water in and around wetlands. This can result in adverse effects on the hydrological functioning of a wetland. It is noted that all water diversions will be designed to mimic the existing catchment flow regime and therefore any changes to the supply of water into adjacent wetlands will be minimal. Furthermore, given the relative size of the catchment any water diversions are unlikely to impact catchment hydrology.

7.12 Coastal Marine Area

The works anticipated within the Coastal Marine Area (CMA) are very limited in scope. In the areas around the Sounds the road corridor and CMA can be in very close proximity of each other. Therefore, works that occur in the road corridor combined with the steep nature of the land means that sediment and materials can travel into the coastal area. To some extent this is a natural process, however the road and its associated water flows exacerbate the speed at which it occurs.

The repair and recovery works will take place in a manner that is sensitive to the receiving environment. In certain locations earthworks may be required to retrieve spoil, vegetation or structures that have slipped below the road and into the CMA. This will exceed the PMEP permitted activity standard of “0.5m³ of natural material” able to be removed from the zone. Removing such material from the coast is expected to result in better outcomes for ecology, water quality and visual impacts than leaving it in situ.

Overall, there are very limited locations where recovery works will encroach into the coastal area. These works will be managed closely using the ESCP and ESMP and therefore effects on the receiving environment will be minimised.

7.13 Cultural values

It is recognised that tangata whenua have an important relationship and are kaitiaki over Aotearoa/New Zealand waterways. The following eight iwi are recognised as tangata whenua in Marlborough, with all eight identified as having statutory acknowledgement in the Port Underwood zone.

- Ngāti Apa ki te Rā Tō
- Ngāti Kuia
- Rangitāne o Wairau
- Ngāti Koata
- Ngāti Rārua
- Ngāti Tama ki Te Tau Ihu
- Te Ātiawa o Te Waka-a-Māui
- Ngāti Toa Rangatira

Marlborough's tangata whenua iwi have particularly strong cultural ties to the Marlborough Sounds, both historic and contemporary. As tangata whenua, they carry a cultural responsibility for sustainable outcomes.

Immediately following the August 2022 event the Marlborough Roads Joint Venture (MRJV) notified iwi groups on the State of Emergency and Response and a copy of this notification is in **Appendix H**.

Engagement has occurred at a high level between the Assets and Services Manager at Council, the MRJV and respective iwi. There was a hui on 5 December 2022 to provide an overview of the project, identify values important to iwi, and whether there are any issues with the proposal. A copy of any correspondence between iwi and the applicant is contained within **Appendix H**.

Various groups noted appreciation for the dialogue from MRJV and look forward to continuing the open communication as the projects progress. During the meeting there was some acknowledgment that the road network is an important resource and enabling its reinstatement was helpful for community access particularly the elderly needing to attend medical appointments.

With regard to the Port Underwood zone, the Ocean Bay area was highlighted as a particular area of interest. Ngāti Toa have been provided with drone imagery and fault maps of this area.

An Archaeological Assessment is being undertaken with any fault sites located within 200 metres of a site registered in the Heritage NZ Archsite database. Several locations of interest have been investigated in greater depth. The archaeological assessments are included in **Appendix J** of this application.

Given the works affect water, land and ecological values, all iwi groups above will be sent a copy of the application and Archaeological Assessment for comment.

For any other site within this zone, if any items of iwi interest are discovered during future maintenance works, iwi representatives will be contacted under the standard discovery practices of the ESMP and the Marlborough Roads Accidental Discovery Protocol. Works will cease until approval is obtained from the relevant iwi, Heritage New Zealand (Pouhere Taonga) and Council. A condition to this effect is volunteered.

MRRT has a commitment that any matters that may arise will be worked through with iwi. Special attention can be given to certain sites with special significance.

7.14 Archaeology

The applicant has volunteered an accidental discovery protocol that will be in place during any works to guide contractors in the event of a discovery. A copy of this protocol is contained within the ESMP attached as **Appendix C**.

As the Port Underwood zone is associated with pre-1900 occupation and use, an Archaeological Assessment was undertaken by WSP to assess the risk of finding archaeological material during construction works. This Archaeological Assessment has been attached as **Appendix J**.

Preliminary findings of the assessment included the identification of 35 Port Underwood zone fault sites within a 200m setback from a recorded archaeological site. These findings are summarised in 2.2.3 above and further detail is provided in **Appendix J**.

Given the outcomes of the archaeological assessment it is likely that further site visits will be required to be undertaken by an archaeologist, and/or an archaeological authority may be required at some of these sites. Council will be provided with any documents relating to any archaeological authority sought and obtained.

7.15 Conclusion

Port Underwood Road, Tumbledown Bay Road and associated side roads are an important lifeline utility for residents of the Port Marlborough area in the Marlborough Sounds. It is important that this infrastructure can be used safely for community wellbeing. The proposed works to repair the road will ensure that the safety of road users is once again maintained.

The proposed activity will have temporary adverse amenity effects during repair of the faults in this zone, however these will be managed in such a manner as to be minor.

Overall, any actual or potential adverse effects of the proposal will be avoided, remedied, or mitigated such that they will be no more than minor. There will be positive effects arising from the proposed works including restoring and ensuring a safe and resilient road network in the Port Underwood area.

8 Consultation

8.1 Iwi & Statutory Acknowledgement areas

A Statutory Acknowledgement recognises the particular cultural, spiritual, historical and traditional association of an iwi with an identified site/area. This informs resource users and enhances the ability of iwi to participate in RMA processes. All top of the south iwi have Statutory Acknowledgements in the adjoining coastal waters. Represented iwi are:

- Ngāti Apa ki te Rā Tō
- Ngāti Kuia
- Rangitāne o Wairau
- Ngāti Koata
- Ngāti Rārua
- Ngāti Tama ki Te Tau Ihu
- Te Ātiawa o Te Waka-a-Māui
- Ngāti Toa Rangatira

Specific Statutory Acknowledgments noted in Te Tau Ihu 2014⁵ include:

Queen Charlotte Sound and Arapaoa Island contained many Rangitāne pā, kainga, cultivation sites, tauranga waka and places where kaimoana were caught. Whatamango, near Waikawa (present day Picton) was an important shark fishery, and many platforms for drying sharks could be found there. It was also a renowned source of shellfish. A large and powerful pā named Te Rae-o-te-Karaka dominated this area.⁶ This pā was located on a steep headland jutting out into Queen Charlotte Sound between Waikawa and Whatamango Bay.

Te Ātiawa o Te Waka-a-Māui has exercised kaitiakitanga with the strongest customary authority over the Queen Charlotte Sound and Islands, including the inherent responsibilities associated with the sustainable management of the environmental resources and taonga.

Queen Charlotte natural environment is of the utmost importance to Te Ātiawa o Te Waka-a-Māui. The iwi maintain a continuing relationship with the land, the environment and the moana, as well as between the people and the spiritual and cosmological bodies. The land, valleys, hills, bays, rocks, water and seaways are viewed as not only resources, but more importantly as a collective identity. They are essential roots that entwine the components of what it means to be Te Ātiawa o Te Waka-a-Māui.'

Pukatea (White's Bay) in Cloudy Bay contained an extensive complex of cultivations, pā and kainga. It was also renowned for its eels and kaimoana. A giant taniwha named Ngarara Huarau lived in a cave at the north end of Rārangi Beach (Moneys Bay). This monster terrorised local people and was killed by the tupuna Rongomai, the builder of the main pā at Pukatea. A Rangitāne pā named Horokaka was located on the island of Horahora Kākahu in Port Underwood. The Rangitāne tupuna Ihaia Kaikoura signed the Treaty of Waitangi at this place on June 17, 1840.

Port Underwood is an ideal sheltering bay, and the gathering of kaimoana would often take place here.

The main areas of Ngāti Toa Rangatira occupation were focused in coastal locations in Te Tau Ihu at Te Hoiere Sound, Port Underwood and the Wairau. These settlements were large and thriving

Given that the works affect water, land and ecological values, all iwi groups above were notified of works occurring in August 2022 and on 5 December 2022 a hui was undertaken to discuss the proposal. The minutes of this meeting are attached in **Appendix H**. Iwi groups will also be provided with a copy of the application concurrent with lodgement with Council. Any responses received will be provided to Council.

If any items of iwi interest are discovered during future maintenance works, iwi representatives will be contacted under the standard discovery practices outlined in the ESMP and the Marlborough Roads Accidental Discovery Protocol. Works will cease until approval is obtained from the relevant iwi, Heritage Zealand (Pouhere Taonga) and Council. A condition to this effect is volunteered.

An Archaeological Assessment that cross-referenced fault sites against the NZ Archsite (NZ Archaeological Association) recording system has been undertaken and 15 sites were identified for

⁵ https://www.marlborough.govt.nz/repository/libraries/id:2ifzri7o01cxbymxkwz/hierarchy/documents/your-council/environmental-policy-and-plans/Te_Tau_Ihu_Statutory_Acknowledgements.pdf

⁶ Karaka Point Historic and Scenic Reserve is located on Port Underwood Road. Further information on Karaka Pā is available through Ngāti Apa ki te Rā Tō's cultural mapping/Te Kura Whānui site: <http://naktrtculturalmapping.co.nz/>

further investigation. Where faults are near registered sites additional precautions, authorisation and practices may be required as specified in the report attached as **Appendix L**.

MRRT has a commitment that any matters that may arise will be worked through with iwi. Any feedback received following the hui and details of any associated volunteered mitigation measures will be provided to Council as soon as they are available.

8.2 Department of Conservation (DOC)

Prior to lodgement of the application the applicant contacted the Department of Conservation (DOC). At a high level they are aware of the need to restore access to DOC reserves and assets. They are also inputting to restoration activities, for example providing the correct plant species mix for hydroseeding.

As noted previously DOC were notified of the 2 other zonal applications in the Marlborough Sounds following the July 2021 event, being the Kenepuru Zone and the Queen Charlotte Drive Zone. A submission was received (**Appendix H**) from the Director General of Conservation stating that it was neutral on the application and sought that if consents were to be granted that certain conditions be imposed to protect conservation values, specifically:

That if consents are granted, they include conditions which adequately protect conservation values. This would include:

- *the consents clearly describing the activities and measures to manage effects;*
- *limits on the scale and duration of works covered by these consents;*
- *adoption of best-practice measures to minimise effects;*
- *measures to mitigate and remedy effects which do occur, including replanting and habitat restoration where appropriate;*
- *measures to avoid or minimise downstream effects on freshwater and marine values;*
- *measures to avoid introducing new pest plant species, or increasing abundance of those currently present;*
- *ensuring that management plans are effective;*
- *monitoring of any adverse effects which do arise;*
- *informing the Department of Conservation prior to any works on, or affecting, Public Conservation Land; and*
- *limiting consent durations so that they are appropriate for the activity and effects.*

This submission was co-signed by the DOC Operations Manager of the Marlborough Sounds Office David Hayes. It seems appropriate that these requirements be incorporated into this application.

8.3 Private Landowners

The faults are generally located within the legal road boundary, and not on private land. However, given the number of faults along the roading network, it is inevitable that in some instances the proposed repair works will extend onto private property.

The nature of the legal road boundary has meant that in several places there are differences between the location of the formed road and actual legal road boundaries.

Given the scale of the works, it is somewhat difficult to assess individual property owners although notes were made in the fault assessment sheets if the remediation works look likely to cross onto

private land. Access agreements will need to be obtained before the works can proceed on private land.

Where possible works on private land will be minimised, however may not be able to be avoided. Affected Party Approvals, land acquisition, and access agreements will be undertaken/obtained as required on a site-by-site basis.

It is anticipated that this application will be publicly notified (refer to Section 9 below).

9 Notification

Section 95A of the RMA details the steps a consent authority must follow to determine whether to publicly notify an application for a resource consent.

In this instance, given the extensiveness of the faults along the roading network the applicant requests that the Council publicly notify this application. This will ensure that any interested parties within the community and any other stakeholders can participate in the resource consent application process.

The proposed works will enable the restoration of Port Underwood Road, Tumbledown Bay Road, and associated side roads. The works are considered necessary and will result in a positive benefit for the area and for the community.

10 Statutory Assessment

10.1 Overview

This section outlines the statutory and planning provisions that are relevant to the proposal.

10.1.1 Sections 9, 12, 13, 14

Section 9(2) of the RMA states that no person may use land in a manner than contravenes a regional rule unless the use is expressly allowed by a resource consent, or is allowed by section 20A (certain existing lawful activities allowed).

Section 9(3) of the RMA states that no person may use land in a manner than contravenes a district rule unless the use is expressly allowed by a resource consent, or is allowed by section 10 (certain existing uses), or is an activity allowed by section 10A (certain existing activities).

Section 12(1) of the RMA states that no person may, in the coastal marine area, deposit in, on, or under any foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on the foreshore or seabed; or destroy, damage, or disturb any foreshore or seabed unless expressly allowed by a national environmental standard, a rule in a regional coastal plan as well as a rule in a proposed regional coastal plan for the same region (if there is one), or a resource consent.

Section 13(1) of the RMA states that no person may, in relation to the bed of any lake or river, use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or excavate, drill, tunnel, or otherwise disturb the bed [...] unless expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region, or a resource consent.

Section 14(3) of the RMA, paraphrased, states that no person may take, use, dam, or divert any water other than open coastal water, unless the taking, using, damming or diverting is expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.

10.1.2 Sections 104 to 108

Before making a decision on a discretionary activity pursuant to Section 104B, Council must consider the proposal in terms of Section 104 of the RMA.

Section 104(1) outlines the following matters, which are relevant to Council's consideration of the application:

"When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to

(a) any actual and potential effects on the environment of allowing the activity; and

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of-

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application".

Section 104(2) states that:

"When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect."

Council's decision in terms of a **discretionary activity** must be made in terms of Section 104B of the RMA. **Section 104B** states that:

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

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108."

The repair works are important to reinstate and improve safety and accessibility of roads for all users as they travel along the road network within the Port Underwood zone.

Section 105 of the Resource Management Act 1991 states that if an application for a discharge permit is to do something that would contravene section 15 or 15B, the consent authority must, in addition to the other matters in section 104(1), have regard to:

a) The nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

b) The applicant's reasons for the proposed choice; and

c) Any possible alternative methods of discharge, including discharge into any other receiving environment.

The discharge component of this proposal is for the discharge of stormwater to water, and discharge of sediment-laden water to water if this cannot be avoided during works. All practical

measures will be in place to avoid the discharges; however, it may not be possible to avoid in all instances.

Section 107 of the Resource Management Act 1991 states that a consent authority shall not grant a discharge permit to do something that would otherwise contravene section 15 or section 15A allowing:

- (a) a discharge of contaminant or water into water; or*
- (b) a discharge of contaminant onto or into land in circumstances which may result in that contaminant entering water; or*
- (ba) the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—*

if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

- (c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;*
- (d) any conspicuous change in the colour or visual clarity;*
- (e) any emission of objectionable odour;*
- (f) the rendering of fresh water unsuitable for consumption by farm animals;*
- (g) any significant adverse effects on aquatic life.*

It is considered that the proposal should not result in the above listed adverse effects given the measures that will be in place, detailed in the ESCP contained in **Appendix D**.

10.2 Civil Defence Emergency Management Act 2002

Section 111 of the Civil Defence Emergency Management Act (CDEMA) states that if a state of emergency is declared, or notice of a transition period is given, under this Act, the Resource Management Act 1991 applies to emergency works as provided for in s330B of the Act.

The Local Transition Period for emergency works in Marlborough following the July 2021 event was extended on several occasions to 3 May 2022.

10.3 National Policy Statement for Freshwater Management 2020 (NPS-FM)

The National Policy Statement for Freshwater Management 2020 came into force on 3 September 2020. As this proposal involves works affecting various streams/creeks, it must therefore be considered against the NPS-FM.

The fundamental concept of the NPS-FM is Te Mana o te Wai, being “*the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.*”

The overarching objective of the NPS-FM 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 is considered to meet this key objective. The activity is not considered to have any significant effect on the health of water bodies or ecosystems. The mitigation measures undertaken to minimise the discharge of sediment into water, and the measures contained within the ESCP further minimise the risk of any detrimental impact on water quality or ecosystems.

Given that there are no consumptive diversions proposed, there should be no effects on the health needs of people.

Maintaining access along the Port Underwood Road and Tumbledown Bay Road for essential travel and emergency services is crucial in providing for the well-being of people and communities.

As such, it is considered that this proposal is consistent with the NPS-FM.

10.4 Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act 2011 defines a “common marine and coastal area” which includes the marine and coastal area, excluding existing freehold title and areas owned by the Crown as conservation areas, national parks or reserves. It states that the common marine and coastal area has a “special status” and that neither the Crown nor any other person owns or is capable of owning it. Every person has the right to enter, pass over, and engage in recreational activities in the common marine and coastal area.

- (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 limits 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 Te Arawhiti website identified the following groups to have made applications for the Pelorus and Queen Charlotte Sound under the Marine and Coastal (Takutai Moana) Act 2011;

- Te Rūnanga o Ngāti Kuia Trust
- Te Runanga a Rangitane o Kaituna
- Rangitāne o Wairau
- Te Ātiawa o Te Waka-a-Māui Trust (East Coast/Cloudy Bay
- Te Ātiawa o Te Waka-a-Māui (Tōtaranui Queen Charlotte Sound)
- Ngāti Apa ki te Rā Tō
- Ngāti Toa Rangitira
- Te Runanga o Ngāti Rārua

Sections 62(2) and 63(3) of the Marine and Coastal Act requires that all such applicants be notified of the consent sought and the consent applicant must seek the views of those applicants. An email was sent out to all iwi summarising the consents sought and the project areas. A copy of this email is contained within **Appendix I**.

10.5 New Zealand Coastal Policy Statement 2010 (NZCPS)

The purpose of the New Zealand Coastal Policy Statement (NZCPS) is to state objectives and policies in order to achieve the purpose of the Act in relation to the coastal environment of New Zealand. A consent authority, when considering an application for a resource consent, must,

subject to Part 2 of the Act, have regard to, amongst other things, any relevant provisions of this NZCPS.

There are parts of the Port Underwood zone which sit above the active tidal interface (mean high water springs) but are still within the extent of the coastal terrestrial environment as delineated by the Proposed Marlborough Environmental Plan (PMEP). Whilst the works are physically based on land, there are connections between the physical and coastal landscape that require coastal values to be considered.

The landward extent of Marlborough's coastal environment is mapped in the PMEP. Establishing the extent of the coastal environment defines the areas in which activities may need to be managed in a particular way to preserve the natural character of this environment in accordance with Section 6(a) of the RMA, and relevant policies of the NZCPS.

The purpose of the NZCPS is to state objectives and policies in order to achieve the purpose of the Act in relation to the coastal environment of New Zealand. The following matters are considered relevant:

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating mātauranga Māori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

In order to achieve the above objectives, the following policies have been specifically identified as relevant to the proposal.

Policy 6 Activities in the coastal environment

This directly relates to the proposal, the policy seeks to enable:

(b) consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;

The proposal seeks to enable the continued use of roading infrastructure. Best practice in terms of the work proposed and sediment management seek to minimise effects on the values of the coastal environment.

Policy 21 Enhancement of water quality

Where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities, give priority to improving that quality by:

(e) engaging with tangata whenua to identify areas of coastal waters where they have particular interest, for example in cultural sites, wāhi tapu, other taonga, and values such as mauri, and remedying, or, where remediation is not practicable, mitigating adverse effects on these areas and values.

The applicant is taking a proactive approach to engagement through the scheduling of pre-application meetings. Engagement to allow iwi views to be considered early in the process achieves better outcomes.

Policy 22 Sedimentation

(1) Assess and monitor sedimentation levels and impacts on the coastal environment.

(2) Require that subdivision, use, or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water.

(3) Control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry.

(4) Reduce sediment loadings in runoff and in stormwater systems through controls on land use activities.

Overall, even taking into account the small amount of sediment released during construction works, allowing the activity to proceed and sites to be stabilised will result in better outcomes in the longer term for the adjacent estuarine environment.

Policy 23 Discharge of contaminants

(1) In managing discharges to water in the coastal environment, 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.

These provisions have been addressed in the Assessment above. Outside of the mixing zone the effects of the discharges to the environment will be less than minor.

In this instance, consideration of the NZCPS requires that the disturbance does not result in significant adverse effects on water quality or the coastal substrate, ecosystems, or habitats. The proposed methodology and approach achieve the directives outlined above. The proposed activity and discharge will therefore be in accordance with the coastal environment outcomes sought by the NZCPS.

10.6 Marlborough Regional Policy Statement

The Marlborough Regional Policy Statement (RPS) has been operative since 28 August 1995. A review of the RPS commenced in 2006 and has subsequently been incorporated into the PMEP that was notified on 9 June 2016. The hearing has been completed and decisions are due. Section 88A(2) RMA requires that any plan which exists when the application is considered must be had regard to. The level of that ‘regard’, that is, the weight applied to the policies is therefore important.

The RPS is a broad policy document which considers all the regionally significant resource management issues and provides objectives, policies and methods to address those issues. It sets

out how natural and physical resources are to be managed in an integrated way to promote sustainable management.

The RPS has been prepared under the RMA 1991, and the provisions contained in Sections 5-8 of the RMA provide the framework for the objectives and policies of the RPS.

The provisions of the MRPS that are most applicable to this proposal include:

Objective 5.1.2 Freshwater Quality

The water quality in Marlborough freshwater bodies be at a level which provides for the sustainable management of fish and plant life.

Objective 5.1.10 Freshwater Habitat

The integrity of freshwater habitats and natural species diversity be maintained or enhanced.

Policy 5.1.11 Habitat Disruption

Avoid, remedy or mitigate habitat disruption arising from activities occurring within wetland, lake or river systems.

Appropriate mitigation measures and provisions will be implemented in accordance with the ESCP attached as **Appendix D** to ensure the health of the freshwater habitats is maintained during the construction works.

Objective 5.1.13 Natural Character and Amenity Values

The preservation of the natural character of wetlands, lakes and rivers and their margins and the maintenance and enhancement of amenity values.

Policy 5.1.14 Natural Character and Amenity Values

- (a) *Preserve the natural character of wetlands, lakes and rivers and their margins.*
- (b) *Maintain and enhance public access and recreational use of wetlands, lakes and rivers and their margins.*

Appropriate mitigation measures and provisions will be implemented in accordance with the ESCP and conditions to ensure these outcomes are achieved.

Objective 7.1.14 Community Infrastructure

Provide for the safe and efficient operation of community infrastructure in a sustainable way

Policy 7.1.15 Land Transport

- (a) *Enable the safe and efficient operation of the land transport system consistent with the duty to avoid, remedy or mitigate adverse environmental effects.*

Policy 7.1.21 Network Utilities and Public Works

Enable the maintenance, enhancement and operation of utility networks needed by the community to ensure their health, safety and wellbeing.

The proposed works are part of maintaining a regionwide road network consistent with this objective. Safety and efficient road provision will be improved for local communities and the wider regional and national economies which rely on the transportation of goods and services.

The proposal is considered consistent with the above objectives and policies.

10.7 Proposed Marlborough Environment Plan

The proposed PMEP is a combined RPS, Regional and District Plan. The relevant objectives and policies are evaluated in **Appendix F**. The proposal in a collective sense is not contrary to the objectives and policies listed.

10.8 Marlborough Sounds Resource Management Plan

The MSRMP has been operative since September 2008. The Plan is a combined plan containing the regional, regional coastal and district plans for northern Marlborough.

An assessment of the relevant objectives and policies has been provided in **Appendix F**. The proposal in a collective sense is not contrary to the objectives and policies listed.

10.9 Part 2 – Purpose and Principles of the RMA

Part 2 sets out the purpose and principles of the RMA. Taking guidance from the Supreme Court Decision, *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, decisions on resource consents must have regard to Part 2 of the RMA provisions where it is appropriate to do so. In this instance, the MSRMP and PMP have been prepared with regard to Part 2 of the RMA and reflect Section 5 to 8. Accordingly, no assessment is required. However, the following sections assess the proposal's consistency with Part 2 for completeness.

10.9.1 Purpose of the RMA – Section 5

Section 5 of the RMA establishes that the objective of the Act is to achieve sustainable management of resources. Sustainable management is defined in section 5 as “*managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while*”—

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The roading network is recognised as regionally significant infrastructure in Marlborough. The proposal is to provide for works that will restore roads and associated infrastructure and remediate landslips, which will ensure the safe operation and ongoing security of the roading network. As such the works will contribute to the safe, efficient, and sustainable management of this resource.

10.9.2 Matters of National Importance – Section 6

Section 6 of the RMA sets out the matters on national importance that are to be recognised and provided for in achieving the purpose of the RMA.

The relevant section 6 matters are as follows:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and*
- (h) *the management of significant risks from natural hazards.*

The proposal seeks to carry out the works in a manner that will restore the project area to pre-storm conditions. Furthermore, the works will follow recommendations from a site-specific landscape assessment and ecological matters will be/ have been discussed with DOC. It is

therefore considered that the proposal provides for the preservation of natural character and is appropriate for the nature of the location.

The works will only occur within and adjacent to areas which have already been modified or disturbed and therefore the proposal is unlikely to result in more than minimal adverse effects on indigenous vegetation. Furthermore, earthworks areas will be hydroseeded with native vegetation to enhance indigenous habitats.

The road network provides access to various locations from which the CMA can be enjoyed. The restoration of the roads will therefore help to maintain public access to, and along, the CMA.

Tangata whenua iwi have been contacted regarding the proposal, and a hui was held on 5 December 2022 to discuss any concerns that iwi may have.

Ongoing consultation will occur prior to this application being lodged. As long as the outcomes of these discussions are taken into account during the project, it is considered that adverse effects on the relationship between local iwi and waahi tapu will be adequately mitigated. The use of the Accidental Discovery Protocol will help to ensure that any hidden taonga within the project area are protected.

Without the restoration and stabilisation works, the project area is particularly prone to significant risks from natural hazards. The proposal will directly mitigate those risks.

10.9.3 Other Matters – Section 7

Section 7 of the RMA sets out the other matters that all persons exercising functions and powers under the RMA shall have particular regard to.

The relevant section 7 matters are considered to be as follows:

- (a) *Kaitiakitanga;*
- (c) *the efficient use and development of natural and physical resources;*
- (d) *The maintenance and enhancement of amenity values;*
- (e) *intrinsic values of ecosystems; and*
- (f) *maintenance and enhancement of the quality of the environment.*

It is considered that the consultation taking place between the applicant and the iwi/hapu groups who have a relationship with the surrounding environment will allow for kaitiakitanga to be expressed.

The project is designed to restore the environment to a degree that is consistent with the landscape prior to the storm event. It is therefore considered that the amenity, ecosystem, and overall quality of the surrounding environment will be maintained.

The maintenance and/or improvement of fish passage and the use of erosion and sediment control measures to maintain water quality will contribute to the maintenance and enhancement of the quality of the environment.

10.9.4 Treaty of Waitangi – Section 8

Section 8 of the RMA states that:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

It is considered that the proposal should not compromise iwi values or the Treaty of Waitangi. All works will operate under the Accidental Discovery Protocol, with a condition volunteered to this effect.

Iwi/hapu groups with cultural interests in the surrounding environment have been contacted regarding the proposed works.

11 Summary

A major storm event that occurred August 2022 caused widespread flooding and road damage across the Marlborough Region. This storm resulted in land slips, road dropouts, fallen trees and structural damage to Marlborough's roading assets.

Marlborough has an extensive rural roading network which is a regionally significant resource to be managed and maintained. For context, the application seeks consents to repairing existing infrastructure rather than installing new infrastructure.

Over 4000 road faults have been recorded across the region following the storm event. This application focuses on repairing damaged sites in the vicinity of Port Underwood. A consent for maintenance of sites and structures is also sought as project sites rehabilitate and in response to future storm events.

Whilst a large amount of repair works in the road corridor are permitted under Council's planning framework, this zonal application seeks to encompass all activities associated with the repair and reinstatement that require consent. A zonal consent is sought as a practical approach to address consenting at this broad scale. In summary the following consents are sought:

- **Section 9, Land Use – Land Disturbance:**
To undertake excavation and filling to facilitate road network repair works and stabilisation of adjoining land
- **Section 9, Land Use – Activity:**
To undertake indigenous vegetation removal for site access and for stabilisation of slips
To place structures (retaining and stabilisation) with 8m of watercourses
- **Section 12, Coastal Permit:**
Disturb the land adjacent to the foreshore that potentially results on the deposit of material on the foreshore and seabed
- **Section 13 and NES-F, Land Use – River Surface or Bed Activities:**
To replace and repair stream crossings and associated road protection structures
To install culverts that in some instances do not meet Regulation 70(1) of the NES-F
To disturb the bed and riparian areas of watercourses and possibly wetlands in the Marlborough Sounds
To occupy the bed of watercourse with structures in some instances do not meet Regulation 47(2)(b) of the NES-F
To undertake maintenance of structures in waterways
- **Section 14, Water Permit – Divert Water:**
To divert water during construction and long-term diversion as a result of installing stream and erosion protection structures
- **Section 15, Discharge Permit – To Water:** To discharge sediment laden water/stormwater to surface water bodies

Consent is also sought to address any effects considered 'ongoing effects'. This relates to emergency works provided for under s330B of the RMA which were undertaken during the State of Emergency declared and the Local Transition Period notified following the storm. The proposed activities within this application, while not in all instances requiring authorisation, are still associated with the activities considered to have ongoing effects across the network and the effects cannot readily be separated out.

The proposal has been considered in the context of National Environmental Guidance documents, Marlborough's regional planning framework and the Resource Management Act 1991. The proposal in an overall sense, aligns with the statutory directives relevant to the various activities.

Volunteered conditions (**Appendix G**) seek to assist in avoiding, remedying, and mitigating effects so that overall, effects arising from undertaking repair works are mitigated and managed in accordance with best practice.

It is considered that resource consent can be granted subject to appropriate conditions of consent. A copy of MDC draft conditions is requested to be supplied to the applicant prior to a decision being finalised.

Appendix A

Geotechnical Engineering Design Solutions

Appendix B

Fault Assessment Sheets

Appendix C

Environmental and Social Management Plan

Appendix D

Port Underwood Erosion and Sediment Control Plan

Appendix E

Culvert Assessment Sheets

Appendix F

Objectives and Policies – PMEP, WARMP & MSRMP

Appendix G

Volunteered Conditions

Appendix H

Consultation

Appendix I

DOC Submission on Submitted Zonal Consents

Appendix J

Archaeological Assessment



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To: Marlborough District Council
PO Box 443
Blenheim 7240



**MARLBOROUGH
DISTRICT COUNCIL**

ISO 9001:2008
Document Number:
RAF0010-CI1921

SUBMISSION ON APPLICATION FOR A RESOURCE CONSENT

1. Submitter Details

Name of Submitter(s) in full _____

Electronic Address for Service (*email address*) _____

Postal Address for Service (*or alternative
method of service under section 352 of the Act*) _____

Primary Address for Service (*must tick one*)

Electronic Address (*email, as above*) ☐ or, Postal Address (*as above*) ☐

Telephone (*day*) _____ Mobile _____ Facsimile _____

Contact Person (*name and designation,
if applicable*) _____

2. Application Details

Application Number _____ U _____

Name of Applicant (*state full name*) _____

Application Site Address _____

Description of Proposal _____

3. Submission Details (*please tick one*)

I/we support all or part of the application ☐

I/we oppose all or part of the application ☐

I/we are neutral to all or part of the application ☐

- ☐ I am a trade competitor for the purposes of section 308B of the Resource Management Act 1991
- ☐ I am directly affected by an effect of the subject matter of the submission that:
- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition
- ☐ I am NOT directly affected by an effect of the subject matter of the submission that:
- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition
- ☐ I am NOT a trade competitor for the purposes of section 308B of the Resource Management Act 1991

The specific parts of the application that my/our submission relates to are *(give details, using additional pages if required)*

The reasons for my/our submission are *(use additional pages if required)*

The decision I/we would like the Council to make is *(give details including, if relevant, the parts of the application you wish to have amended and the general nature of any conditions sought. Use additional pages if required)*

4. Heard in Support of Submission at the Hearing

I/we wish to speak in support of my/our submission

☐

I/we do not wish to speak in support of my/our submission

☐

OPTIONAL: Pursuant to section 100A of the Resource Management Act 1991 I/we request that the Council delegate its functions, powers, and duties required to hear and decide the application to one or more hearings commissioners who are not members of the Council. *(Please note that if you make such a request you may be liable to meet or contribute to the costs of commissioner(s). Requests can also be made separately in writing no later than 5 working days after the close of submissions.)*

☐

5. Signature

Signature _____ Date _____

Signature _____ Date _____

6. Important Information

- Council must receive this completed submission before the closing date and time for receiving submissions for this application. The completed submission may be emailed to mdc@marlborough.govt.nz.
- The closing date for serving submissions on the consent authority is the 20th working day after the date on which public or limited notification is given. If the application is subject to limited notification, the consent authority may adopt an earlier closing date for submissions once the consent authority receives responses from all affected persons.
- You must serve a copy of your submission on the applicant as soon as is reasonably practicable after you have served your submission on the consent authority.
- Only those submitters who indicate that they wish to speak at the hearing will be sent a copy of the section 42A hearing report.
- If you are making a submission to the Environmental Protection Authority, you should use form 16B.
- If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.
- If you make a request under section 100A of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners. You may not make a request under section 100A of the Resource Management Act 1991 in relation to an application for a coastal permit to carry out an activity that a regional coastal plan describes as a restricted coastal activity.
- Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):
 - it is frivolous or vexatious;
 - it discloses no reasonable or relevant case;
 - it would be an abuse of the hearing process to allow the submission (or the part) to be taken further;
 - it contains offensive language;
 - it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

7. Privacy Information

The information you have provided on this form is required so that your submission can be processed under the Resource Management Act 1991. The information will be stored on a public file held by Council. The details may also be available to the public on Council's website. If you wish to request access to, or correction of, your details, please contact Council.