

Before Gisborne District Council

Under the Resource Management Act 1991 (the **RMA**)

In the matter of of application by Gisborne District Council for resource consent to modify a stopbank at Te Karaka

**OUTLINE OF SUBMISSIONS
FOR THE WI PERE TRUST**

Dated 25 September 2026



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Introduction and summary

1. The Wi Pere Trust is the owner of a 21.2 ha property to the north of Te Karaka township, 17 ha of which is currently protected by the Te Karaka Flood Scheme (**TKFS**), and did not flood during Cyclone Gabrielle.
2. The Wi Pere Trust property comprises ancestral land for the purpose of s 6(e) of the RMA, which has been held through the Trust entity since 1899 on behalf of 600 beneficial owners, and more recently operated under specific statutory recognition through the Māori Purposes (Wi Pere Trust) Act 1991.
3. TKFS “upgrade” project entirely fails the Trust’s property and undermines the Trust’s relationship as mana whenua with their ancestral land. The project most certainly does not “recognise and provide for” that relationship.
4. There has been no consideration of the specific and very significant impacts on the Trust’s property resulting from the new stopbank alignment, including the impacts on the owners’ relationship with this ancestral land in the process of option selection.
5. To be clear, while there is an alternative option for stopbank realignment that would not be located on the Trust’s property directly, it is not the stopbank itself that is the principal concern, at least for RMA purposes.
6. It is instead the undermining of the Trust’s intentions for development of its land for the benefit of whānau beneficiaries which is at stake, as caused by removing the protection of the existing stopbank, but this has not been evaluated or factored into the process to date.
7. This omission represents comprising a substantial failure to meet the Council’s duties under s 6(e) of the RMA to the point where the proposed upgrade is submitted to be flawed as a matter of law, contrary to the sustainable management purpose of the RMA, and should not proceed as currently planned.

Wi Pere Trust’s Land Holding

8. As explained in the statement of evidence of Trust Chair Mr Alan Haronga prepared for the purpose of this hearing, the Wi Pere Trust is a statutory trust operating under the Māori Purposes (Wi Pere Trust) Act 1991.

9. The Trust's property comprises some 21.2 ha of land identified as properties TK15, TK17 and TK18 on Figure 6 to the Application for the upgrade project.
10. While the Trust's property is currently principally utilised for maize production, the Trust's development strategy is to transition the block to permanent horticulture and papakāinga housing enabling future generations to live on the land.
11. However, if the existing stopbanks are removed as proposed through the upgrade (and realigned as intended through the selected Option 3, or the proposed back up alternative¹), this medium term strategy will be thwarted with the Trust no longer being able to undertake permanent horticulture, and certainly no longer able to establish papakāinga housing.
12. As matters stand, some 4 ha of the Trust's property is outside the stopbank and in the floodplain.
13. Through the proposed realignment (under Option 3), approximately 16 ha would be outside the stopbank and form part of the flood plain i.e. be newly exposed to flood hazard risk and deposition of sediment and river gravels during the wide range of rainfall events from which the property is currently protected. Even more land would be exposed to flooding under the backup alternative alignment,² which is further south again.

Option Selection and Effects Assessment

14. The Trust submits that there would be few, if any, other properties more directly affected by the proposed TKFS upgrade project. Despite that, there does not appear to be any information within the multitude of documents filed in support of the application or in evidence since, comprising any specific or detailed assessment of the impact of the project on the Trust's property.
15. This lack of direct and specific assessment is both surprising and extremely concerning to the Trust.
16. Mr Hooker's evidence and the Consequential Flood Risk Assessment report to which it refers (**CFRA**), reveals that the location of the Trust's

¹ Refer Section 4.2.4 and Figure 19 of the Application.

² Ibid.

property would be the most significantly exposed to increased flood depths as a result of the project.³

17. The CFRA report does include specific assessment of *consequential* flooding impacts on a range of residential properties and infrastructure assets⁴ making the lack of equivalent assessment of the direct impacts on the Trust's property, all the more remarkable.
18. The Economic Assessment report⁵ refers to four horticultural producing properties having been identified and assumes per hectare losses for those properties, but again contains no specific reference to the Wi Pere Trust property nor any quantified assessment of economic consequences for the Trust property specifically.
19. There is certainly no assessment anywhere that counsel is aware of the broader social and cultural impacts of the proposed upgrade on the Trust, its ancestral land, or the 600 beneficial owners.
20. Beyond that, Council's option evaluation (**MCA**) process⁶ expressly excluded any consideration of impacts on s 6(e) relationships.⁷ While Mr Exeter's planning evidence suggests cultural outcomes were factored in,⁸ this is not evident on the face of the report.⁹ The "community" selected option was confirmed by the Council before any direct engagement with the Trust took place.¹⁰
21. The Trust rejects any suggestion in Mr Ruifrok's evidence that the engagement process ensured tangata whenua perspectives and cultural values in relation to the Wi Pere Trust property specifically were factored into the overall option evaluation process.¹¹
22. Acknowledging the role of Te Aitanga a Māhaki which was involved, as Mr Haronga explains, their representatives would not have an understanding of the specific interests and concerns of the Trust, as outlined in his evidence. With respect to Mr Exeter also,¹² the alternative

³ Paragraph 9.10 and Figure 4 of Mr Hooker's evidence, section 3.2 and Figure 3.1 of the CFRA.

⁴ Refer sections 4 and 5 of the CFRA report.

⁵ Appendix 16 to the Application.

⁶ As detailed in Appendix 6 to the Application.

⁷ Refer section 8, page 18 of the report.

⁸ Paragraph 16.10.

⁹ Refer details of the criteria applied on page 18 of the report, Table 8.1.

¹⁰ Refer section 2.3 of the Application.

¹¹ Refer paragraph 8.6 of Mr Ruifrok's evidence.

¹² Refer paragraph 16.12 of his evidence.

alignment does nothing to address the Trusts principal concern, and would actually make it worse, as noted above.

23. The following extract of the s 42A report (addressing s 6 matters of national importance) is cited in full in this context.

The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga is a matter that has been raised in submission from Wi Pere Trust, that has expressed concern about whether 6(e) matters are met by the proposal. While the applicant has engaged with mana whenua and proffered conditions intended to support ongoing collaboration, I acknowledge that formal opposition from this submitter remains. At this stage, I am unable to conclude that this matter of national importance has been fully provided for. This is a matter that, in my opinion, warrants further consideration at the hearing. (Section 6(e)).¹³

24. Overall, the process represents a demonstrable failure by the Council to recognise and provide for the s 6(e) relationships which the Trust holds with its ancestral land, and represents a fundamental flaw in the overall Option Assessment process to the point the Trust submits that the TKFS upgrade project cannot proceed, and resource consents for it must be declined.
25. In that regard, counsel refers to the following extract of the Privy Council's decision in *McGuire v Hastings District Council*:¹⁴

21. Section 5(1) of the RMA declares that the purpose of the Act is to promote the sustainable management of natural and physical resources. But this does not mean that the Act is concerned only with economic considerations. Far from that, it contains many provisions about the protection of the environment, social and cultural wellbeing, heritage sites, and similar matters. The Act has a single broad purpose. Nonetheless, in achieving it, all the authorities concerned are bound by certain requirements and these include particular sensitivity to Maori issues. By section 6, in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for various matters of national importance, including "(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu [sacred places], and other taonga [treasures]". By section 7 particular regard is to be had to a list of environmental factors, beginning with "(a) Kaitiakitanga [a defined term which may be summarised as guardianship of resources by the Maori people of the area]". By section 8

¹³ Paragraph 18.8 of Mr Exeter's evidence is also noted in this context

¹⁴ [2001] NZRMA 557, at [21].

the principles of the Treaty of Waitangi are to be taken into account. **These are strong directions, to be borne in mind at every stage of the planning process. The Treaty of Waitangi guaranteed Maori the full exclusive and undisturbed possession of their lands and estates, forests, fisheries and other properties which they desired to retain.** While, as already mentioned, this cannot exclude compulsory acquisition (with proper compensation) for necessary public purposes, **it and the other statutory provisions quoted do mean that special regard to Maori interests and values is required in such policy decisions as determining the routes of roads. Thus, for instance, their Lordships think that if an alternative route not significantly affecting Maori land which the owners desire to retain were reasonably acceptable, even if not ideal, it would accord with the spirit of the legislation to prefer that route.** So, too, if there were no pressing need for a new route to link with the motorway because other access was reasonably available.

(emphasis added)

26. This point aside, and considering those factors which were expressly applied in the MCA process, Option 1 (upgrading the existing stopbanks on their existing alignment)¹⁵ scores as well if not better in terms of feasibility, consentability and flood risk reduction to residential properties.¹⁶
27. As that Option Assessment report also records (along with the AEE itself), relocating the stopbank to a more retreated position (on the Trust's property or through the alternative alignment to avoid that property) is likely to promote additional aggradation, as reduced flood flow velocities may no longer be sufficient to keep sediment entrained.
28. As a result of that any retreated stopbank is likely to offer only a medium term solution without further works being required.¹⁷
29. The Stantec review report (2 September 2026) commissioned to inform the s42A report notes that additional evidence may be required regarding changes in flood depths, velocities and duration affecting productive land and orchards,¹⁸ and that is certainly the case for the Trust's property.

Conclusion

30. For all of these reasons, the Trust submits that the Council must go back to the drawing board and reconsider its options for upgrading flood

¹⁵ Refer Table 3.1 of Appendix 6 to the Application.

¹⁶ Refer Table 8.2 of Appendix 6.

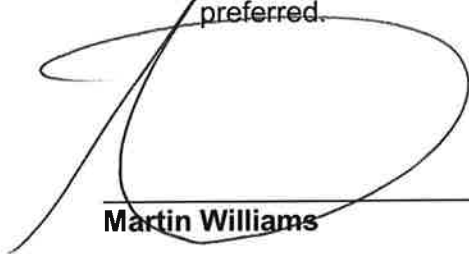
¹⁷ Refer executive summary of Appendix 6.

¹⁸ Refer section 4.5 of that report.

protection to better protect the Te Karaka community, including the Trust's property. This is not a concern that can be addressed through after the fact conditions.¹⁹

31. As matters stand, the process of option identification and lack of specific assessment of direct effects on the Trust's property represents a fundamental flaw and is in breach of the Privy Council's direction as to the manner in which s 6(e) of the RMA must be applied in the circumstances of this case, in achieving the sustainable management purpose of the RMA.

32. Specifically, appropriately weighting the Trust's preferences, a different option (including upgrading the existing stopbank alignment) must be preferred.



Martin Williams

¹⁹ Paragraph 18.10 of Mr Exeter's evidence.