

Appendix A

Application Form

Application for Resource Consent

Section 88 of the Resource Management Act 1991



OFFICE USE ONLY

Application Number: **CE-2019-108849-00**

Received GDC	02 /04 /2019	Received SO	/ /20	Received ADM	02 / 04 /2019	EDRMS No.	
Deposit Paid	\$ 500.00	Date Paid	12/04/2019	Category	CE	Officer.	Bram Armiento

About this Form

Please answer all the questions and provide the relevant details of your proposal. We recommend you talk your proposal through with Council planning staff before you fill in this form.

Activity Type and Location

This application is for: Change of conditions (s.127) Change of consent notice (s.221)
 Land Use Consent Subdivision Consent Land Use (Regional) Other

Site(s) to which this application relates is described as:

4, 6, 8 **Tuahine Crescent, Wainui Beach**
Street/Rapid No. Street / Road Name

Property Valuation No. **0823070401, 0823070400, 0823070500**
(see your rates notice)

Legal Description: **Lots 5, 6 and 7 DP 3216**

Fully describe the Location:
The rear of 4, 6 and 8 Tuahine Crescent (partially on beach)

Map Reference NZTM:
(office use only)

Applicant's Details (all correspondence will be sent to the applicant unless Agent's details are completed)

Name in full: **Simon Cave** **Annabel Reynolds**
Surname First Name Middle Name

Postal Address: **6 and 8 Tuahine Crescent, Wainui Beach**

Phone: **068639876**
Day Mobile

Email: **simon.cave@gisborne.net.nz, bestbeachview@xtra.co.nz**

Email is Council's preferred method of contact.
Do you agree to receiving your correspondence and consent by email? Yes No

The applicant is the: Owner Occupier Prospective Purchaser The Crown
 Network Utility Operator Agent / Consultant (provide details over page)

Property Owner's Details (if different from Applicant)

Name in full:
Surname First Name Middle Name

Postal Address:

Phone:
Day Mobile

Email:

Agent/Consultant Details (all correspondence will be sent to your Agent)

Company: 4Sight Consulting Contact Person: Cassandra Ng

Postal Address: PO Box 911310 Victoria Street West, Auckland

Phone: 0210511898 Day Mobile

Email: cassandran@4sight.co.nz

Email is Council's preferred method of contact.
Do you agree to receiving your correspondence and consent by email? Yes No

Address for Invoices

Send all invoices and annual charges to: Applicant Agent/Consultant Other

If other - Name:

Postal Address:

Detailed Description of Proposed Activity

Construction of a timber pile rip-rap hybrid sea wall to replace the existing degraded seawall - refer to AEE for more detail

continue on the back page if necessary

Additional Resource Consents Required for this Proposal

Are any other resource consent(s) required for your proposal, but are not being applied for under this application?

Land Use Consent Subdivision Consent Discharge Permit
 Coastal Permit Water Permit Land Disturbance
 Other (give details)

Please list any previous consents relevant to this current application:

Consultation

Have you consulted with iwi? Yes No

If **yes**, who have you consulted with?

Ngati Porou and Ngati Oneone

Who else have you consulted with?

Please attach any relevant correspondence.

Approval of Potentially Affected Parties

Have you obtained written approval from all parties potentially affected by the proposal? Yes No

Please attach the completed approval forms with a copy of your plans also signed by the affected people.

Please Note: Council planning staff will determine whether any people or groups are potentially affected by your proposal. Please discuss with our planning staff prior to lodging your application.

See note on page 5.

Notification of the Application

Are you requesting the application to be publicly notified? Yes No

Please discuss the implications of notification with Council planning staff if necessary.

Assessment of Environmental Effects (AEE) (Please see the checklist on page 5 for guidelines on how to prepare an AEE)

Further information on AEEs is available at the customer service centre or on the Ministry for the Environment website www.mfe.govt.nz.

Please note: An AEE generally requires a separate sheet/report. Please attach any additional information.

Please see attached AEE

continue on the back page if necessary

Council Contact

Have you discussed your proposal with any Council planning staff?



Yes



No

If yes, who have you spoken with: Paul Murphy

Name of Council staff member

Contributions

When granting consent to certain activities, Council may levy a monetary contribution. Development contributions are levies under the Local Government Act 2002 in accordance with the Council's Development Contribution Policy. Financial or reserve contributions are levies under the RMA and Council's Combined Regional Land and District Plan.

Deposit and Signature

The required deposit must be paid before we process your application. A deposit is not required for regional consents.

Land Use	Non notified \$600.00	Notified \$3,000.00	Balance to be charged or refunded on a time and material basis
Subdivision	Non notified \$900.00	Notified \$3,000.00	

I enclose a deposit of \$ for processing this application.

I have paid a deposit by electronic banking of \$ 600.00 on (date)

Council's bank account details:

ACCOUNT NO. 03 0638 0502288 00

PARTICULARS: **RC DEPOSIT**

CODE:

(surname)

PARTICULARS:

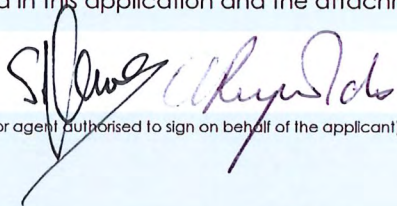
(road name)

I understand that Council may invoice me for the actual and reasonable costs incurred in processing this application.

I (please print full name) Simon Cave and Annabel Reynolds agree

- i) that I am liable for all fees and charges relating to this application
- ii) the deposit is to be paid at the time of lodging the application for resource consent
- iii) that payment is due within 30 days of the issue date of any additional charges
- iv) the information provided in this application and the attachments to it are accurate

Signature of the Applicant


(or agent authorised to sign on behalf of the applicant)

Date

Admin Check

Privacy Information

The information you have provided on this form is required so that your application can be processed under the RMA and statistics can be collected by Council. The information will be stored on a public register held by Council. The details may also be made available to the public on Council's website. These details are collected to inform the general public and community groups about all consents which have been issued through Council. If you would like to request access to, or correct your details, please contact Council.

Checklist

You need to provide the following information with your application for resource consent

If any of the items are not included in your application, Gisborne District Council may determine that the application is incomplete and return it to you, or your application may be put on hold until the necessary information is provided.

- Certificate(s) of Title for the subject site.** *They must be less than 3 months old*
- Statement of proposal.** *Provide full details of the nature and scale of the activity or development*
- Location plan or aerial photograph at a suitable scale.**
Showing the physical location of the subject site in relation to adjoining streets/roads and sites.
- Site Plan (scale 1:200/1:500 - rural may be larger) that includes (if applicable to your proposal):**
 - North point
 - Title or reference number
 - Date the plans were drawn
 - Topographical information
 - Buildings on adjacent sites
 - Road frontages
 - Natural features, including significant trees
Indigenous vegetation and watercourses alterations
 - Earthworks design and contours
 - Existing and proposed landscaping
 - Existing and proposed carparking areas
 - Site coverage calculation
 - Certificate of Title boundaries
 - Details of any signage (sign design, dimensions and location on building(s))
 - Location of existing and proposed buildings and/or proposed building
- Elevation plans and floor plans (scale 1:50/1:100) of all structures to be constructed or altered, showing relationship of proposed buildings, including:**
 - The natural ground level
 - Existing and finished ground levels
 - Maximum building height and relevant height plane angle(s)
- Assessment of the Effects on the Environmental (AEE)**
 - Have you addressed carparking requirements? (operational design dimensions numbers, vehicle manoeuvring etc).
 - Does the National Environmental standard for contaminated land apply? (see MfE leaflet available at front counter of Council offices).
 - Does the proposal create any positive environmental effects?
 - What are the current noise levels and what are the proposed noise levels generated by the proposal?
 - How does the proposal effect neighbours e.g sunlight intrusion, amenity, privacy?
 - What are the effects on any natural conservation areas, including indigenous vegetation, margins or waterways, the coastal environment, or wetlands.
 - Does the proposal remove or alter a building of cultural or historic significance, including archaeological sites, wahi tapu, heritage items or trees.
 - The compatibility of the proposal with the existing style of development and the existing amenity values.
 - The effects of the proposed activity on any landscape area overlays.
 - What are the risks associated with the use, storage or movement of hazardous substances.
 - The effects of the proposed activity on the State Highway (if applicable), district roading network and public parking.
 - The effects arising from dust, vibration or odour types of wastes involved, their volumes, the possible options for the treatment and disposal of wastes.
 - Natural hazards that might affect your site or proposal.
 - Effects of economic and social well being on the wider community.
 - Any visual effects of; buildings, equipment, storage or parking areas on the landscape.
 - Details of how any identified adverse effects are to be avoided, remedied or mitigated, including the use of covenants on land titles.
 - Has the site been used for an activity identified on the Hazardous Activities and Industries (HAIL) list at any stage in the past, as defined in the National Environmental Standard for Contaminated Land?
- Written approval from all affected persons**
 - Complete the "Affected Persons Consent" form
 - Signed forms and plans are attached to the application

OFFICE USE ONLY: * Items to be marked:

Pass - i.e correct information supplied

Fail - i.e unsatisfactory (need to state reason)

Not Applicable

Check*
(Office use only)

LU-2019-108876-00



LAND. PEOPLE. WATER.




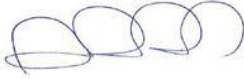
Tuahine Seawall, Wainui Beach

For Simon Cave and Annabel Reynolds

Resource Consent Application and Assessment
of Environmental Effects

April 2019

REPORT INFORMATION AND QUALITY CONTROL

Prepared for:	Simon Cave and Annabel Reynolds	
Author:	Cassandra Ng Planning and Policy Consultant	
	Sam Morgan Senior Coastal Consultant	
Reviewer:	Max Dunn Principal Planning and Policy Consultant	
Approved for Release:	Aaron Andrew Managing Director	
Document Name:	RC_Tuahine Seawall_April 19_v1.0	
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1 APPLICANT AND PROPERTY DETAILS

Site Address:	4, 6 and 8 Tuahine Crescent, Wainui Beach
Applicant's Name	Simon Cave and Annabel Reynolds
Address for Service:	4Sight Consulting Ltd PO Box 911 310, Victoria Street West Auckland 1142 Attention: Cassandra Ng / Sam Morgan
Address for Fees:	Simon Cave and Annabel Reynolds 6 and 8 Tuahine Crescent Wainui Beach Gisborne 4010
Owner:	4 Tuahine Crescent – Cave Property Trust 6 Tuahine Crescent – Simon Cave 8 Tuahine Crescent – Annabel Reynolds
Legal Description:	Lots 5, 6, 7 DP 3216
Plan Name:	Tairāwhiti Resource Management Plan
Plan Zone:	General Residential
Plan Designations, Limitations, or Overlays:	Coastal Management: Significant Values Management Area Coastal Management: Outstanding Landscapes Coastal Management: Coastal Environment Natural Hazards: Stability Alert – Site Caution Natural Hazards: Coastal Hazard Overlays – Extreme Risk Historic and Cultural Heritage: Heritage Alert Overlay Land Management: Land Overlays 2 and 3
Brief Description of Proposal:	Construction of a timber pile rip-rap hybrid sea wall
Resource Consents Being Sought:	Land Use Consent
Overall activity status of resource consent:	Non-complying

Locality Plan:



Figure 1: Aerial maps showing location of proposed seawall (Source: Gisborne District Council)

2 INFORMATION REQUIREMENTS

2.1 General

This land use consent application has been prepared in accordance with the requirements of Schedule 4 of the Resource Management Act 1991 (the Act).

The completed council application form is attached at **Appendix A**.

3 BACKGROUND

3.1 Consent History

The existing railway iron and timber wall parallel to Tuahine Crescent was constructed around 1960. Whilst the structure was constructed by the Cook County Council (now Gisborne District Council) there is no record of consents authorising the construction of the structure.

Tonkin and Taylor, on behalf of Gisborne District Council, applied for resource consents for a replacement rock revetment wall, retention of gabion baskets and sand push up works at Wainui Beach in 2017 (council references LU-2017-107788-00, LL-2017-107789-00, CC-2017-07790-00, CO-2017-107791-00). The sand push ups were withdrawn from the application, and a hearing was held in February 2018 for the gabion basket and rock revetment wall. Following the hearing, resource consent for the retention of the gabion baskets was granted, while consent for the replacement rock revetment was refused. The replacement seawall proposed was considerably larger than the existing structure, with a crest height approximately 2-2.5m above the existing structure, and it extended an additional 3-3.5m seaward. The increase in structure size was considered necessary by Tonkin and Taylor to meet modern coastal engineering design parameters.

From a review of the hearing decision, concerns were regarding the potential impacts of the seawall on landscape amenity and natural character, largely due to the scale of the proposed seawall. In addition, the seaward advance of the structure also meant the replacement structure both extended into reserve land within the Coastal Marine Area (CMA) and the Common Marine and Coastal Area (CMCA). This raised further issues around public access along the foreshore and the extent of potential end effects from the structure, and the impact upon adjoining public and private land.

A copy of the hearing decision for the application lodged in 2017 is attached as **Appendix B**.

3.2 Coastal Marine Area

The CMA is defined in the Act as:

“the foreshore, seabed, and coastal water, and the air space above the water-

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary shall be whichever is the lesser of-

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5"

Case law¹ indicates that due the fluctuating nature and eroding coastline of Wainui Beach, that a pragmatic approach for identifying mean high-water springs (MHWS) at this part of the beach is to use the existing line of the foredune protective structures i.e. the Council seawall. As such, for the purposes of this application, only works which are seaward of the existing seawall (and therefore MHWS) are deemed to be within the CMA.

4 THE PROPOSAL

The proposal involves the replacement of a seawall at 6 and 8 Tuahine Crescent. In brief, the works will involve demolition of the existing seawall and construction of a new seawall at 6 and 8 Tuahine Crescent. In addition, partial replacement of the seawall at 4 Tuahine Crescent and access to the site (i.e. for construction vehicles) via Wainui Beach will also be required. The proposed seawall will be entirely within the footprint of the existing seawall.

Plans of the proposed seawall prepared by LDE are attached at **Appendix C**.

4.1 Purpose

The existing seawall protecting the properties at 6 and 8 Tuahine Crescent is approximately 50 years old, is in a state of disrepair and the longevity of the wall is uncertain. In addition to this, the Wainui Beach Erosion Management Strategy identified the southern area of Wainui Beach as at risk from progressive erosion and the need to replace existing coastal protection structures in this area. As such, the purpose of this proposal is to enable the replacement of existing coastal protection structures to protect the properties at 6 and 8 Tuahine Crescent from loss and damage from coastal processes.

4.1.1 Wainui Beach Erosion Management Strategy

The Wainui Beach Erosion Management Strategy was developed in 2014 by Gisborne District Council, coastal experts and various stakeholders, and sets out Gisborne District Council's strategy for managing coastal erosion at Wainui Beach. The strategy identifies a number of short term (10-20 years), medium term (20-30 years) and longer term (next 100 years) actions for managing the risk in this area associated with coastal processes, erosion and sea level rise.

The strategy recognises that there are no appropriate options for soft engineering in the subject area (identified in the strategy as 'Area 2 – Tuahine Crescent'), and that the existing seawall to the north of the

¹ Gisborne District Council v Falkner A082/94

groyne is in a degraded condition and would require replacing to ensure engineered protection in this area is maintained. The replacement of the existing rail and rock wall north of the groyne is therefore identified as an option promoted for Area 2 – Tuahine Crescent.

The strategy also notes several points of relevance to the proposal, including that the new structure should “*minimise seaward encroachment over the beach - ideally trying to stay as close to the footprint of the existing wall as practicable*”. It is also identified that coastal structures have the potential to degrade the natural character of the shoreline and restrict public access along the coast at higher stages of the tide.

The proposal has been designed with the Wainui Beach Erosion Management Strategy in mind, noting that:

- The proposed seawall is entirely within the footprint of the existing seawall, and therefore does not result in any additional seaward encroach over the beach;
- The design and extent of the seawall will ensure there are no additional restrictions to public access along the beach beyond the existing situation; and
- The proposed seawall has been carefully designed to ensure that the scale and extent, materiality and proposed planting assists in ensuring the seawall is sympathetic to the natural character of the coastal environment.

4.2 Timber Pile/Rip-Rap Hybrid Seawall

The basis of the proposed seawall is described in the seawall feasibility letter in **Appendix D**. The letter notes that the proposed coastal protection structure will be a hybrid type solution with a vertical structure located in the front of the wall to restrict the toe and allow for the rip-rap behind the wall to be built up to design heights. The timber piles are prescribed at Ø300mm would be spaced at 900mm centres to avoid loss of rock between individual piles. The larger rock will be placed along the seaward face and along the top of the rip-rap wall to create a stable platform to construct the remainder of the wall. The proposed seawall will be approximately 24m long, noting the total existing seawall length (from 8 Tuahine Crescent to 72 Murphy Road) is approximately 83m long.

The rock wall will dissipate the energy approaching the base of the cliff to avoid any further erosion. It will act in a similar manner to the existing structure with the most significant difference being an increased crest height to allow for future sea-level rise. The crest height of the proposed structure is lower at RL 4m than the previously proposed RL 4.85m. This height reduction of 0.85m will mean an increased risk of overtopping with a future sea-level rise of 1m, with 700mm of freeboard above the 1%AEP storm surge event and wave setup water level. This should provide more than sufficient protection from overtopping under present day conditions to enable time for salt tolerant planting to be established above the structure. This planting should be able to absorb the relatively minor and infrequent overtopping that is expected in the future.

The seawall has been designed to remain within the footprint of the existing structure and within private property boundaries to minimise the potential impact on the receiving environment. However, the crest of the seawall has been designed to be 2m higher than the existing to allow for existing overtopping

scenarios and future impacts of sea level rise and climate change. As there is risk of wave overtopping during extreme storm events once sea level rise has been realised, suitable salt tolerant planting is proposed at the top of the seawall to assist in land stabilisation and dampening the impact of any overtopping of the structure in the future. It is envisaged that the planting will be well established by the time this begins to occur with any frequency.

The seawall structure will be located entirely within the private property boundaries of 4, 6 and 8 Tuahine Crescent. It is noted that construction of the seawall will require works (i.e. temporary access by construction vehicles) in the esplanade reserve and CMA, however following completion of the works, no part of the seawall will be located in either the council owned esplanade reserve or the CMA (refer to Section 3.2)

With reference to Section 3.1 above, the seawall has also been specifically designed with a significantly reduced scale and extent compared to that previously proposed to ensure it addresses the key issues raised in the hearing for the resource consent sought for the previous replacement seawall (refer to Figure 2 and 3 below). Furthermore, the seawall will be constructed of local rock material (including rock from the existing wall) which is recessive in colour (i.e. beige, tan, white and grey tones) and the applicant accepts this as a condition of consent.

Photos and visual simulations of the existing and proposed seawall are illustrated in Figures 4-6 below. These are also contained within the Visual and Landscape Assessment prepared by 4Sight Consulting and attached at **Appendix E**.

Plans prepared by LDE illustrating the proposed seawall are attached at **Appendix C**.

4.2.1 Construction

The proposed seawall will be constructed generally as follows:

- 1) Construction will occur by first stacking the existing rock material for storage and reuse and removal of the railway irons to allow access to the desired alignment. This work will likely be done in stages so not to affect the integrity of the remaining wall and so that materials can be stored within the works footprint.
- 2) The new piles will then be drilled and concreted over the low tide cycle with the contractor to determine the number of piles that are able to be achieved on a daily basis. All spoil will be removed from site and disposed of to an appropriate site.
- 3) Concrete work will likely to occur after a sufficient number of piles have been 'set' and enough concrete is required to justify a delivery. In order to avoid heavy concrete trucks on the beach, concrete will likely be delivered from the Tuahine Crescent carpark and pumped to the foreshore. All other vehicles will access the site via the Pare Street beach ramp and traverse down the beach at low speed. No vehicles will be stored on the beach over the high tide period. The appointed contractor shall ensure that all machinery is well maintained to minimise the chance of failure or oil leaks. The contractor shall carry a spill kit with them at all times in case of an accidental spill. No refuelling of machinery shall occur on the beach.

Earthworks are proposed, however large quantities of earthworks are not envisaged as the structure will be placed on a mix of existing sand or bedrock. The exact quantity to be undertaken is unclear at this stage as the exact extent of the existing structure and nature of the underlying material will not be known until this has been cleared and excavation to design depth undertaken. Regardless it is anticipated that its earthworks volumes will be between 10-20m³. The supply of additional rock has been allowed for in the design in order to achieve the design slopes.

The contractor will outline the erosion and sediment control measures to be adopted on the along with details of the Health and Safety requirements in a Construction Management Plan to be submitted to GDC prior to construction commencing. Works will be carried out in accordance with a Construction Management Plan (CMP) addressing matters such as machinery and vehicle refuelling, access for construction vehicles etc. The applicant offers the preparation of the CMP as a condition of consent.

4.3 Vegetation and Planting

As noted in Section 4.2 above, salt tolerant native plantings are proposed at the top of the seawall, including Hawera, Coastal Mahoe and Scrambling Pohuehue.

Further details of the proposed plantings are in Section 8 of the Visual and Landscape Assessment attached at **Appendix E**.

4.4 Mitigation Proposed

All works will be undertaken in accordance with the mitigation measures mentioned in the above sections, including:

- Works undertaken in accordance with a CMP;
- Construction of the seawall in local rock material; and
- Salt tolerant planting in accordance with the Visual and Landscape Assessment (**Appendix E**) will be planted at the top of the seawall.

4.5 Consideration of Alternatives

The proposal is not one that will generate more than minor adverse environmental effects (refer Section 9), so alternative locations and options do not need to be provided in accordance with the information requirements stipulated in Schedule 4 of the RMA. Although not required under the RMA, alternative solutions were considered throughout the design process, including two other seawall design options (including a vertical concrete/rip-rap hybrid and a rip-rap/toe backshore retaining). The two alternative seawall designs are described in detail in the feasibility letter prepared by 4Sight Consulting and attached at **Appendix D**.

The proposed seawall design was considered the most appropriate and preferred option due to the ability to stop rock to migrating seaward with the hybrid toe detail and the ability to remove the timber piles at their base in the future should the structure need to be removed. The extent of the seawall was

determined by the conditions on sit with the aim of minimising the footprint by tying into local natural features.

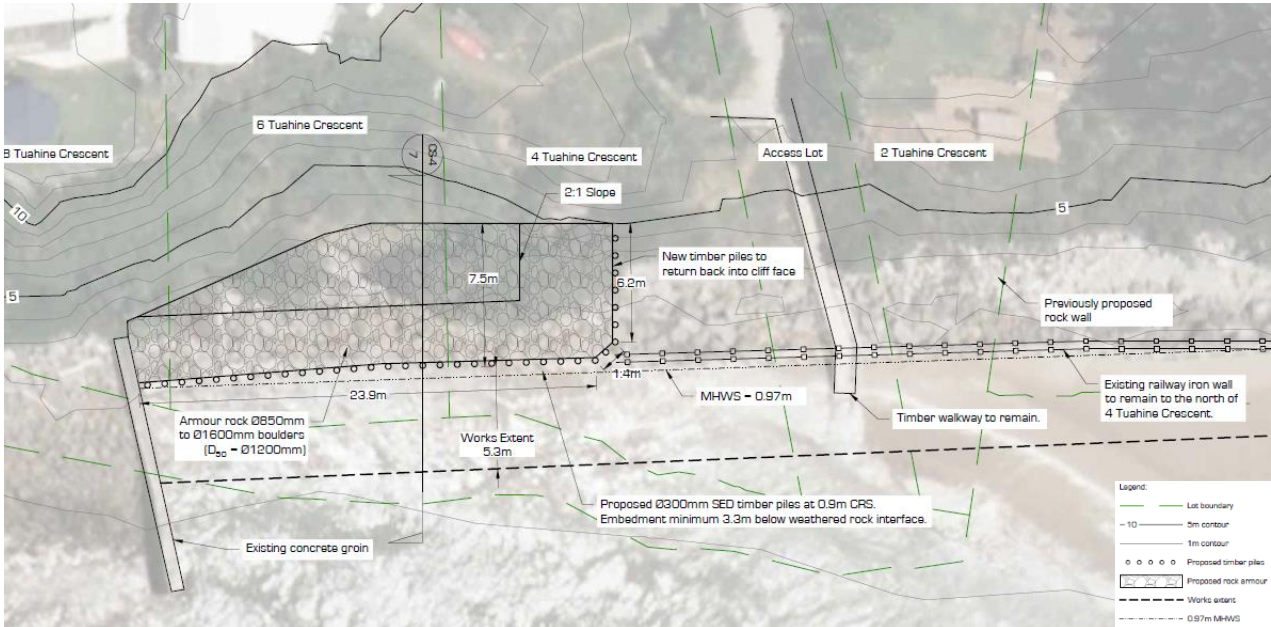


Figure 2: Site plan of proposed seawall (Source: LDE)



Figure 3: Site plan showing extent of previously proposed seawall under LU-2017-107788-00, LL-2017-107789-00, CC-2017-07790-00, CO-2017-107791-00 (Source: Tonkin and Taylor)



Figure 4: Photo of existing seawall (Source: 4Sight Consulting)



Figure 5: Diagram showing existing seawall and proposed extent of proposed seawall and planting area (Source: 4Sight Consulting)



Figure 6: Visual simulation showing proposed seawall (Source: 4Sight Consulting)

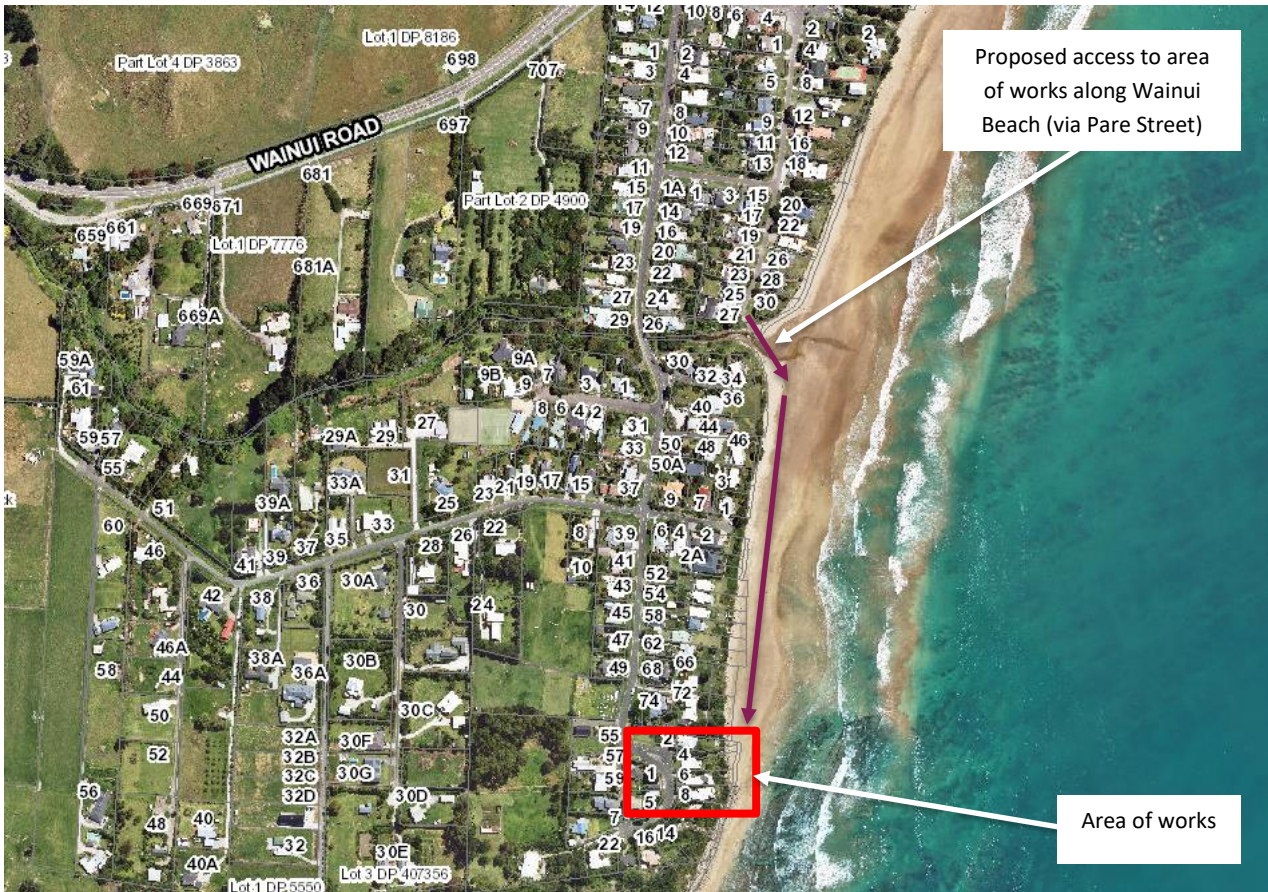


Figure 7: Aerial map showing area of works for construction of seawall and access to the site along Wainui Beach, via Pare Street (Source: Gisborne District Council)

5 THE SITE & SURROUNDING ENVIRONMENT

5.1 The Site and Surrounds

The subject site comprises of three residential properties at 4, 6 and 8 Tuahine Crescent, located at the southern end of Wainui Beach, approximately 6km to the east of Gisborne. The subject site is bound by Tuahine Crescent to the west, public stairs and reserve providing access to the beach from Tuahine Crescent to the north, Wainui Beach to the east and residential properties to the south. The residential sites each contain a residential dwelling, and slope down toward the east. There is an existing public reserve to the north of 4 Tuahine Crescent which provides access to Wainui Beach (Figure 8)

There is an existing coastal protection structure comprising a railway iron wall that traverses the rear of 4, 6 and 8 Tuahine Crescent in a north-south direction. The seawall is located approximately 8m seaward from the cliff toe and is approximately 160m long, running from the southern concrete groyne to 52 Murphy Street to the north. The seawall is approximately 50 years old and currently in a state of disrepair (refer to Figure 9). Other coastal protection structures in the area include an existing rock revetment to the south of the southern concrete groyne, and gabion baskets near 21 Wairere Road, approximately

900m north of the proposed works area. As such, the site is located on a part of Wainui Beach which has been highly modified by man-made structures.

The surrounding environment comprises of a coastal residential environment, with existing residential properties and development to the north, south and west and public reserve and Wainui Beach to the east.

The certificates of title for the sites are attached at **Appendix F**. There are no interests or restrictions on the titles for the sites that are relevant to this application.

Maps indicating the zoning and overlays relevant to the site are attached at **Appendix G**.



Figure 8: Aerial showing subject sites (outlined in red) and locations of adjacent council reserves (Source: Gisborne District Council)

5.2 Coastal Environment

5.2.1 Geology

Wainui Beach sits within the Hikurangi Deformation Front and the associated rock is siltstone and mudstones which have been uplifted and deformed to their present day position. The subject site marks the transition point from a beach setting to a cliff setting. This is indicated by the exposed siltstone face and the LDE geotechnical investigations of the site (refer to plans in **Appendix C** and Coastal Processes Memo prepared by 4Sight Consulting attached at **Appendix H**). Sand at the site fluctuates between 0.5 and 2m deep depending on changing weather and swell conditions.

5.2.2 Ecology

Due to the position within the tide and fluctuating nature of sands at the site, no significant marine or coastal habitat are known to be present at the site. Offshore from the site is a series of reef structure which is likely to contain a range of reef species common to the area. The adjoining bank is comprised of mostly weed species except for a couple of flax plants and one large pohutakawa located on private land.

5.2.3 Coastal Processes

Wainui Beach is considered to be a high energy beach open to ocean swells from the NE to the S. These swell events dictate a range of fluctuating current and sediment deposition patterns along the beach. For a further detailed description of the coastal processes at the site has been included at the Coastal Processes Memo attached at **Appendix H**.



Figure 9: Photo of existing seawall, facing south towards concrete groyne (Source: 4Sight)

6 CONSULTATION

6.1 Consultation with Mana Whenua

Copies of feedback and correspondence described in this section is attached at **Appendix I**.

The applicant has made contact with Ngati Porou and Ngati Oneone regarding the proposal. An email with a brief description of the proposal, plans and an invitation to meet on-site to discuss the proposal was sent to iwi representatives. Email correspondence to date has been supportive (refer to **Appendix I**) and further correspondence will be forwarded to the processing planner.

6.2 Written Approvals

Written approvals have been obtained from the owners of 4 Tuahine Crescent and 2 Tuahine Crescent (refer to Figure 10).

The signed approval forms and plans are attached at **Appendix J**.



Figure 10: Aerial showing locations of persons who have provided their written approval to the application

7 PERMITTED ACTIVITIES THAT ARE PART OF THE PROPOSAL

Permitted activities that form part of the proposal are as follows. A detailed review of compliance is contained in **Appendix K**.

- Removal of vegetation (being weed species plant and shrubs) not exceed 30cm d.b.h in the Outstanding Landscape Area and Coastal Environment overlays is permitted; and
- Removal of vegetation in the Land Overlay 3 is permitted.

8 REASONS FOR THE APPLICATION

An assessment of the proposal against the relevant statutory documents has been undertaken and the following reasons for consent are identified. A detailed analysis of the rules is provided in tabular form in **Appendix K**.

8.1 Tairāwhiti Resource Management Plan

Land use consent is being sought under the Tairāwhiti Resource Management Plan (TRMP) for the following activities:

- The construction of a seawall which is not provided for in residential zones. Pursuant to DD1.6.1(32), consent is required as a **non-complying** activity.
- The proposal will involve more than 10m³ soil/land disturbance in the Land Overlay 3. Pursuant to C7.1.6(3), consent is required as a **restricted discretionary** activity².
- The proposal involves the construction of a seawall to mitigate the effects of coastal hazards in the Coastal Hazard 1 Overlay. Pursuant to C8.5.7(1), consent is required as a **discretionary** activity.
- The proposal involves earthworks that will alter natural dune landform in the Coastal Hazard 1 Overlay. Pursuant to C8.5.7(3), consent is required as a **discretionary** activity.
- The proposal involves removal of the existing seawall in the Coastal Hazard 1 Overlay. Pursuant to C8.5.7(4), consent is required as a **discretionary** activity.
- The proposal will involve land disturbance in the Outstanding Landscape Area which will disturb more than 10m³ of soil. Pursuant to C9.1.6(12), consent is required as a **restricted discretionary** activity².

8.2 Overall Status of the Application

Overall, resource consent is required for a non-complying activity.

² As noted in Section 4.2.1, it is anticipated that the proposed seawall will involve minimal earthworks as construction of the seawall will predominantly involve uplift / placement of rock material and drilling for the new timber piles. However, the exact extent of earthworks / land disturbance is not known, such that consent is applied for out of an abundance of caution under C7.1.6(3) and C9.1.6(12) of the TRMP.

8.2.1 Non-Complying Activities – s87A, s104B and s104D

As a non-complying activity, there is no limitation in the matters that can be considered providing they are resource management related. The consent authority may decline consent or it may only grant consent with or without conditions providing the requirements of s104D are met.

9 SCHEDULE 4 RMA – ASSESSMENT OF ENVIRONMENTAL EFFECTS

9.1 Introduction

Having reviewed the relevant plan provisions, visited the site and taking into account the matters that must be addressed by an assessment of environmental effects as outlined in Clause 7 of Schedule 4 of the Act, the following environmental effects warrant consideration as part of this application.

As this application is for a non-complying activity, relevant effects that the council can consider are unlimited. Notwithstanding the ability of council consider all effects, we consider that only the following effects are relevant:

- Positive effects;
- Effects on visual amenity and landscape values;
- Construction and earthworks effects;
- Coastal process effects;
- Coastal hazard effects;
- Effects on public access;
- Effects on biodiversity and ecological values; and
- Cultural and archaeological effects.

An assessment of these effects, that corresponds with the scale and significance of the effects that the activity may have on the environment, is provided below in the remaining parts of section 9. Clause 7(2) notes that the requirement to address matters in the assessment of environmental effects is subject to the provisions of any policy statement or plan. The relevant documents have been assessed in Section 10 of this report.

9.1.1 Permitted Baseline

The permitted baseline is relevant to both the assessment under sections 95A – 95G and section 104 of the Act. Under these sections, 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. This is the permitted baseline. It is only the adverse effects over and above those forming a part of the baseline that are relevant when considering an application.

The purpose of the permitted baseline test is to isolate and make irrelevant, the effects of activities on the environment that are permitted by the plan. When applying the permitted baseline, such effects cannot then be taken into account when assessing the effects of a particular resource consent

application. The baseline has been defined by case law as comprising the 'existing environment' and non-fanciful (credible) activities that would be permitted as of right by the plan in question.

In this case, the permitted baseline is of limited relevance as coastal protection structures, such as seawalls, are not provided for in the General Residential zone and therefore require resource consent. Vegetation removal as part of the proposal is permitted, and as such any effects associated with this are disregarded as within the permitted baseline.

In addition, no unlawful structure can be relied on as part of the permitted baseline.

9.1.2 Receiving environment

In assessing the potential adverse effects on the environment, the receiving “environment” for effects must be considered.

The receiving environment is a mandatory consideration defined by caselaw and is the environment beyond the subject site upon which a proposed activity might have effects. This includes the future state of the environment upon which effects will occur, including:

- The environment as it might be modified by the utilisation of rights to carry out permitted activities; and
- The environment as it might be modified by implementing resource consents that have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.

In this case the receiving environment is as described in Section 4.5 of this report, which identifies various coastal protection structures including the existing 160m long railway iron seawall which is in a state of disrepair. While the structure exists in its current location, as noted in Section 3.1, there is no record of lawful establishment of the seawall. However, documentation and historic aerial photographs indicate the seawall was established around 1960. Despite this, it cannot be denied that the structures have been in place and protected private properties on Tuahine Crescent for over 50 years, therefore supporting that (whether or not the seawall has been lawfully established), the seawall forms part of the existing environment.

There are no known resource consents yet to be exercised.

9.1.3 Other considerations

Sections 95D(d)-(e) and 104(3)(a) of the Act require that assessments must disregard:

- Trade competition, or the effects of trade competition; and
- Any effect on a person who has given written approval to this application.

Trade competition and written approval are not relevant to this application.

9.2 Positive Effects

The proposal will have positive effects, including:

- The protection of existing residential development and privately-owned land from coastal erosion, thereby protecting the social and economic wellbeing and health and safety of people and the community;
- Additional planting of native species within a coastal environment, providing additional land stability;
- Improved visual amenity due to the replacement of a part of an existing seawall currently in a state of disrepair and proposed planting of the lower slope; and
- Improved visual integration of the new seawall through use of natural and recessive materials and removal of visually prominent iron bars.

9.3 Effects on Visual Amenity and Landscape Values

The proposal is located within a coastal environment and an Outstanding Landscape, and involves the replacement of an existing seawall with a seawall with an increased height. As such, the proposal has the potential to generate adverse effects on the environment in terms of visual amenity and landscape character.

A Visual and Landscape Assessment has been prepared by 4Sight Consulting which assesses the visual impact of the proposed development in relation to visual amenity and landscape values. The assessment is attached at **Appendix E** and summarised below.

9.3.1 Visual Amenity

In terms of visual amenity, the assessment identifies six key viewing audiences as southern beach users (past groyne), residents of 6 Tuahine Crescent, users of the Tuahine Crescent public beach access, beach users in front of 4 and 6 Tuahine Crescent, beach users 50-250m north of the site and beach users more than 250m north of the site, and considers the effects of the proposal on each of these viewing audiences.

The assessment considers that the greatest visual change will be experienced by those closest to the proposal, being beach users in front of 4 and 6 Tuahine Crescent and users of the Tuahine Crescent public beach access. While the proposal will result in a visual change to these viewers, the assessment identifies that the most noticeable change will be the increase in height from the current rock revetment (which forms part of the receiving environment) to that of the proposed seawall. Although the proposal will result in a higher structure than currently exists, the seawall has been designed to ensure it appears visually recessive and integrated when viewed in the wider landscape. The use of local rock material (including rock from the existing wall) which is recessive in colour (noting this has been offered as a condition of consent in Section 4.2) and the replacement of iron bars (noted in the assessment as the most visually dominating element in the landscape) with timber posts will soften the visual appearance of the wall and enable it to visually assimilate into the coastal edge environment. In addition, proposed revegetation will assist in obscuring the increased height and further assimilating the seawall into the

landscape. As such, while the assessment notes the proposal will form a “visible and recognisable change”, the change itself will present an “improved visual situation” when assessed against the existing situation due to the greater visual integration of the new seawall compared to the existing. This is further demonstrated by Figures 4-6 (also included in the Visual and Landscape Assessment at **Appendix E**), which show that whilst a noticeable visual change, that the proposal will not detract from or generate adverse visual effects for these viewers due to its design and materiality, modest footprint and planting proposed. Overall conclusions regarding impacts on viewing audiences is that, while there will be some effect on viewing audiences within closest proximity, this will reduce over time as the use of natural and lighter coloured materials, maturing of planting and natural accumulation of driftwood will visually integrate the seawall with the shore and beach environment (particularly when viewed the north and west) (refer to Table 1 in the Visual and Landscape Assessment at **Appendix E**).

For the remaining viewing audiences described above, the proposal will represent an insignificant visual change as views of the seawall will be obscured by the existing groyne, topography or proposed planting, or viewed at such a distance that seawall will either form a small component of the coastal landscape or be barely discernible due to sheer distance and scale of the wall in the context of the wider landscape. Overall, conclusions regarding impacts on viewing audiences are that, while there will be some effect on viewing audiences with unobstructed views and within close proximity, the seawall has been designed to ensure that it will visually assimilate into the coastal edge environment.

Furthermore as noted in Section 5.1, that the proposal is located within an area of Wainui Beach which has been highly modified by man-made structures, including the existing seawall. Therefore, the proposal will replace an existing structure and will not introduce any new or additional man-made structures beyond that already existing and the proposal will not change the visual character of the site or generate additional adverse effects on the visual amenity or character of the area.

9.3.2 Landscape Values and Natural Character

In terms of effects on landscape values and natural character, the assessment considers that the proposed seawall will reduce the visual impact of a man-made structure, thereby presenting an improvement upon the existing situation. While of a greater height, the proposed seawall will be in the same location and extent as the current seawall, and has been designed to ensure the materials, colours and landscaping enable the replacement seawall to be readily absorbed within the receiving environment, and therefore reduce potential adverse effects on the coastal and outstanding landscape values. The assessment notes *“The proposed seawall replacement seeks to mitigate the effects of a man made intervention along the beachfront by using natural materials (timber and local rock) to create an aesthetic effect that is as visually integrated as possible given the technical constraints of seawall design. The location of the seawall , in the same alignment and location as the “facing edge” iron bars with the cliff and background vegetation adds to its ability to be absorbed within this environment. The increased height of the seawall along the cliff base will still sit low within the wider panoramic view and will be visually screened and softened by existing and proposed vegetation along its top edge over time”*.

With specific reference to the existing situation on the site, the assessment notes *“The proposed design also presents a reduction in the obviousness of human impact on this special coastline when compared to the existing iron bar condition”*.

Due to the sensitive nature of the site, the Visual and Landscape Assessment recommends a number of mitigation measures which the applicant accepts as forming conditions of consent. These conditions will ensure that the visual and landscape effects of the proposal will be assessed in this application, and the recommendations include matters such as undertaking planting in accordance with the planting schedule, restrictions on rock wall height to 4m and enabling a high LRV value to enable timber and rock materials to visually integrate with the coastal environment.

Overall, the assessment concludes that *“Taking into account the mitigation measures proposed specific to retention and enhancement of existing vegetation, use of local and natural materials and the maximum height of the wall, the inclusion of the new sea wall will have negligible impact on the existing landscape character and will not contribute to any significant diminishment in view quality”*.

9.3.3 Residential Character and Amenity

In terms of residential character and amenity, the proposal is to replace a portion of seawall which has existed on the site for over 50 years. The proposed seawall will be generally in keeping with the existing seawall in terms of extent, scale and form. These, together with the coastal location of the properties, will ensure that the proposed replacement seawall will not generate any further adverse effects on the environment in terms of residential character or amenity.

9.3.4 Conclusion

Based on the specialist’s assessment and comments above, it is considered that the proposed development has been designed in a manner which ensures that effects in terms of visual amenity and landscape values are appropriately mitigated to have, at most, minor effects on the environment.

9.4 Construction and Earthworks Effects

Any adverse construction effects can be appropriately managed through a CMP, which will ensure that suitable controls are in place with respect to health and safety of the public and contractors, public access and alternative pedestrian routes during works (if necessary), vehicle refuelling and construction noise and hours. The beach area where works will be carried out will be closed off to the public, and the remainder of the beach (i.e. being the majority of the beach) will remain accessible to the public. Given the scale of the works, the works are expected to be completed within one month, as such the proposal will only have temporary adverse construction effects on the environment,

In addition, any adverse in terms of earthworks will be managed through an ESCP (within the offered CMP, as noted in Section 4.2.1) and best management practice. Controls will be in place prior to works commencing and will only be removed upon completion of works, ensuring that the effects of dust, erosion and sediment are contained within the area of works, with minimal discharge to the coastal marine area and surrounding environment and for the entire duration of works.

Overall the construction period is anticipated to be one month, with effects being temporary in nature. As such the earthworks and associated construction effects are considered to be less than minor.

9.5 Coastal Process Effects

A Coastal Processes Assessment has been prepared by Sam Morgan of 4Sight Consulting (attached at **Appendix H**) which assesses the potential adverse effects of the proposal on coastal processes.

The assessment considers that given the nature of local conditions and the scale and extent of the proposed seawall which is generally consistent with the existing structure, that it is unlikely that the replacement seawall will impact upon the local wave climate, current regimes, sediment transport or inundation level at Wainui Beach. The assessment notes *“The rock wall will dissipate the energy approaching the base of the cliff to avoid any further erosion. It will act in a similar manner to the existing structure [with the most significant difference being an increased crest height to allow for future sea-level rise]”*.

In terms of reflection, the assessment notes that the proposed seawall will act in a similar manner to the existing structure due to the permeable nature of the seaward face of the wall, enabling water to flow through the structure and dissipating some wave energy. It is concluded that the *“potential effects to arise from wave energy reflection off the proposed new structure are considered to be undetectable in the context of the existing situation”*.

In terms of end effects, the assessment notes that *“[Currently] there are existing structures on either side of the proposed which are capable of absorbing the potential impact of end effects. The structure has been designed in order to minimise the potential end effects by “tying off” into these existing structures”*. Notwithstanding, the assessment recognises that should the existing seawall (beyond the proposed new wall) be removed, that there is a limited area to the north near the beach access stairs that may be impacted by end effects generated by the proposed seawall. The assessment notes that any effects on this structure will be appropriately managed by design of a new access structure, noting that the existing structure will likely need to be replaced during the removal of the existing seawall.

Based on the specialist’s assessment, it is considered that the proposed seawall has been designed to ensure that any adverse coastal process effects will be appropriately managed and less than minor when compared to the existing situation on the site.

9.6 Coastal Hazard Effects

The site and surrounding area are located within a coastal environment and which is recognised under the TRMP as risk of coastal hazards and erosion. The proposed seawall will not increase the risk of coastal hazard or erosion at the site given its limited scale and extent. In terms of erosion, the 4Sight Coastal Processes Assessment (attached at **Appendix H**) recognises that due to the design and extent of the wall, it will not impact upon erosion risk at the site in any discernible way.

In terms of coastal inundation, the assessment notes that *“The rock wall ...will act in a similar manner to the existing structure with the most significant difference being an increased crest height to allow for*

future sea-level rise. At RL4m, the crest height of the structure proposed here is lower than the previously proposed at a height of RL4.8m. While this height reduction will mean an increased risk of overtopping. Incorporating a future sea-level rise of 1m, the new design provides 700mm of freeboard above the 1%AEP storm surge event and wave setup water level. This height should provide sufficient protection from overtopping under present day conditions and enable time for salt tolerant planting to be established above the structure. This planting should be able to absorb the relatively minor and infrequent overtopping that is expected”.

Based on the specialist’s assessment, it is considered that the proposal has been designed to ensure that any adverse coastal hazard effects will be less than minor.

9.7 Effects on Public Access

Any adverse effects of the proposal in terms of public access will be less than minor as the proposed seawall will replace the existing railway iron wall; there will be no change or increase in the number or extent of structures that have the potential to obstruct public and walking access than from what currently exists. The public will continue to have the access to the beach from the access lot to the north of 4 Tuahine Crescent and this will remain unchanged following the proposed development, and any tidally restricted access will also remain unchanged from the existing situation.

Furthermore, as noted above, access will be restricted during the construction period, however this will be temporary in duration (approximately one month) and full public access will be restored on the completion of works.

As such, the proposal will not generate any adverse effects on public access beyond those already occurring as the proposal is for a replacement seawall of a similar scale and extent to that existing on the site.

9.8 Effects on Biodiversity and Ecological Values

The proposed seawall will not be located within an area identified as containing any significant conservation, biodiversity or ecological values. The proposed seawall will replace the existing seawall within a highly modified coastal environment and will be of an identical alignment and within the footprint of the existing structure. As such, the proposal is not anticipated to have any further impacts on benthic and terrestrial microfauna in the area than that already occurring. Furthermore, the seawall is not located within a bird nesting, roosting or feeding zone.

As the proposed seawall will replace an existing seawall within a highly modified environment which is not identified as containing any significant biodiversity or ecological values, it is considered that any adverse effects of the proposal on biodiversity and ecological values will be less than minor.

9.9 Cultural and Archaeological Effects

As the works are within a coastal environment, the proposal has the potential to generate adverse effects on the relation of Maori with their ancestral lands, water, sites, waahi tapu or other taonga. Relevant iwi

groups have been contacted in relation to this application and consultation is on-going. Responses and feedback from iwi will be provided to council when received, and it is noted that if any specific requests or cultural concerns are raised by iwi, the applicant is open to addressing these. It is noted that the potential adverse effects that iwi are likely to be interested in or concerned with (i.e. impacts on the coastal environment, biodiversity and ecological values) have been addressed in Section 7 of this report as less than minor.

Furthermore, a search of ArchSite has confirmed that there are no registered archaeological sites in the works area. It is also noted that the area is dynamic and earthworks have previously occurred in the works area (for the existing railway iron wall), and therefore the proposed works are unlikely to adversely affect any archaeological sites, and standard accidental discovery protocol will be adhered to and an Archaeological Authority from Heritage New Zealand will be applied for if any sensitive or archaeological material is uncovered during works.

As such, adverse effects on cultural values are likely to be less than minor, although consultation with iwi is ongoing and the responsibility for assessing impacts on cultural values ultimately lies with iwi as mana whenua of this area.

9.10 Environmental Effects Assessment Summary

Overall, from the assessment undertaken above the proposal will have actual and potential effects that are considered to be acceptable.

10 STATUTORY ASSESSMENT

10.1 Section 104(1)(a) of the Act

Section 104(1)(a) requires that when considering an application for a resource consent, the consent authority must, subject to Part 2, have regard to 'any actual and potential effects on the environment of allowing the activity'.

As assessed in Section 9 above, the proposal will have actual and potential effects that are acceptable. In particular, the limited the scale and extent of the structure and use of natural and local materials will ensure that that proposed seawall is visually assimilated into the wider coastal landscape. Potential adverse effects during construction and earthworks can be suitably avoided or mitigated through the provision of a CMP, and effects in terms of public access and coastal processes will not be significantly different from the existing situation. The new seawall will also assist in restoring the natural character of the coastal environment through the removal of the visually prominent iron bars of the existing seawall and will ensure the protection of the properties at 4, 6 and 8 Tuahine Crescent (and beyond) from coastal erosion.

10.2 Section 104(1)(ab)

Section 104(1)(ab) requires that the consent authority consider “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”.

In the case of this particular application, the proposal is not of a scale or nature that would require specific offsetting or environmental compensation measures to ensure positive effects on the environment.

10.3 Section 104(1)(b) of the Act

Section 104(1)(b) requires that when considering an application for a resource consent, the consent authority must, subject to Part 2, have regard to:

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

An assessment of the relevant statutory documents that corresponds with the scale and significance of the effects that activity may have on the environment has been provided below.

10.3.1 New Zealand Coastal Policy Statement

The proposal involves use and development of land adjacent to the coastal environment, and therefore requires consideration against the New Zealand Coastal Policy Statement 2010 (NZCPS) which sets out how the coastal environment should be managed at a national level.

The key objectives and policies of the NZCPS seek to:

- Protect the integrity, form, functioning and resilience of the coastal environment and its ecosystems (Objective 1);
- Preserve and encourage the restoration of the natural character of the coastal environment and protect natural features and landscape values from inappropriate use and development (Objective 2, Policies 13, 15);
- To take into account the principles of the Treaty of Waitangi in relation to the coastal environment and recognise the relationship of tangata whenua over their lands, rohe and resources (Objective 3, Policy 2);
- Maintain and enhance public open space qualities and recreation opportunities of the coastal environment (Objective 4, Policies 18, 19);

- To ensure that coastal hazard risks are managed and consider the range of options for reducing coastal hazard risk (Objective 5, Policies 24, 25 and 27); and
- Enable people and communities to provide for their social, economic and cultural wellbeing and their health and safety through use and development, while recognising that the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms (Objective 6).

The proposal is consistent with the NZCPS as:

- The proposed development will not result in adverse effects on the integrity, form, functioning or resilience of the coastal environment as the proposed seawall will be entirely within the footprint/seaward extent of the existing seawall, and will effectively act as a 'renewal', rather than a new seawall. The limited extent of the proposed seawall will ensure that the integrity of the adjacent coastal environment and coastal processes are maintained;
- The proposal is appropriate in the context of the existing coastal environment as the proposed seawall will replace an existing, degrading structure. As outlined in the Visual and Landscape Assessment at **Appendix E**, although greater in height, the proposed seawall assists in restoring the natural character of the coastal environment through the use of natural, local and raw materials and proposed native planting which enable the seawall to assimilate into the coastal environment and the removal of man-made features (being the iron rods) from the coastal landscape;
- Relevant iwi groups have been contacted in relation to this application and consultation is on-going and there are no identified archaeological sites near the area of works;
- The proposal will maintain and enhance public and walking access as the proposed seawall will be within the footprint of the existing seawall, and therefore will not obstruct movement to or along the coast, nor will it reduce space in the CMA for recreational activities;
- Potential coastal management options have been considered in both the Wainui Beach Erosion Management Strategy by Gisborne District Council, as well as options for seawall designs by the applicant as discussed in Section 4.5 of this report. The replacement of the existing seawall is the only practical means to protect the private properties to the west of the cliff line which are at extreme risk from coastal erosion. The dwellings landward of the seawall, as well as the rock and rail iron wall, are existing and the replacement of the seawall will not facilitate more intensive residential development; and
- The proposal will enable people and communities to provide for their social, economic and cultural wellbeing and health and safety by mitigating the effects of coastal erosion on the adjacent properties.

As such, the proposal is considered to be consistent with the strategic direction of the NZCPS.

10.3.2 Tairāwhiti Resource Management Plan

The relevant objectives and policies of the TRMP seek to:

- Ensure the sustainable use of natural and physical resources (Objective B9.1.1.3);

- Protect and preserve the natural character, amenity values and outstanding natural landscapes of the coastal environment (Objectives B4.3.1.1, B4.3.1.4, B4.4.1.1, B9.1.1.1, C3.2.2.1, C9.1.3.2 Policies B4.3.2.4, B9.1.2.9);
- The adverse effects of activities on the integrity, functioning and resilience of natural processes and qualities, such as natural movement of sediment and water, should be avoided as far as practicable (Objective B4.4.1.2, Policy C3.2.3.3);
- Protect outstanding natural features and landscapes from the adverse effects of activities (Objective C3.3.2.2, Policies C3.3.3.3, C3.3.3.4, C9.1.4.4);
- The restoration and rehabilitation of outstanding natural features and landscapes is undertaken where the adverse effects of past activities have degraded those features and landscapes (Objectives B4.3.1.2, B4.4.1.3, C3.3.2.3, Policy B4.3.2.5);
- Maintain public access to and along the CMA in the Coastal Environment (Objectives B9.2.1.1, C3.5.2.1, Policy C3.5.3.1);
- To restrict attempts to control natural processes by physical work to appropriate situations, such as where they are needed to protect existing development, will have no more than a minor adverse effect on the natural character of the coastal environment and will not cause or worsen hazards to other lands or waters (Policies B5.1.3.2, C8.1.4.5);
- Ensure mitigation works are designed and constructed in sympathy with the environment (Policy C8.1.4.6); and
- Recognise the implications of climate change, including a change in sea level rise (Policies B5.1.3.5, C8.1.4.7).

The following comments are made with respect to the objectives and policies above:

- The proposal will ensure the sustainable use of natural and physical resources, as the proposed seawall will be constructed out of natural and reused sustainable materials, including timber posts, local rock (including reuse of rock from the existing wall). The proposed seawall will also protect physical land resources from coastal erosion and processes;
- As assessed in Section 9.3 and the Visual and Landscape Assessment at **Appendix E**, the proposal will protect and preserve the natural character, amenity values and outstanding natural landscapes of the coastal environment. The proposal has been designed to ensure it is of a form, scale and visual appearance which visually assimilates into the receiving environment and is compatible with outstanding natural landscape values;
- As assessed in Section 9.5 and the Coastal Processes Assessment at **Appendix H**, the proposed seawall has been designed to ensure that it will maintain natural and coastal processes;
- As assessed in Section 9.3 and the Visual and Landscape Assessment at **Appendix E**, the proposal has been designed to ensure that it restores and rehabilitates the natural character of the coastal environment. The proposal reduces the extent of discernible human impact on this part of the coastline, when compared to the existing rock and iron bar seawall;
- As assessed in Section 9.7, the proposal will maintain the extent of existing public access across this part of the beach. The proposed seawall will not extend any farther seaward than the existing wall, and therefore will not further hinder public access to and along the CMA;

- The proposed replacement seawall is required to protect existing residential properties to the west of the cliff face from coastal erosion and hazards. The proposed seawall will replace an existing structure and will remain entirely within the footprint of the existing seawall, and therefore does not seek greater control or management of natural processes beyond that of the existing situation. As assessed in Section 9, the proposed seawall will have no more than minor adverse effects on the natural character of the coastal environment and will not generate hazards to other lands which cannot be appropriately managed; and
- As assessed in Section 9, the proposed seawall has been designed to take account of climate change and sea level rise.

As such, the proposal is considered to be generally consistent, and therefore not contrary to, the relevant objectives and policies of the TRMP.

10.4 Section 104(1)(b) Summary

The above assessments demonstrate that the proposal will be consistent with the relevant objectives and policies of the relevant statutory documents, subject to fair and reasonable conditions being imposed as recommended in Section 11.

10.5 Section 104 (1)(c) of the Act

Section 104(1)(c) also states that consideration must be given to "any other matters that the consent authority considers relevant and reasonably necessary to determine the application."

The Wainui Beach Erosion Management Strategy is relevant to the application and has been considered in Section 4.1.1 of this report.

11 OTHER RELEVANT SECTIONS OF THE ACT

11.1 Section 104D Test for Non-Complying Activities

To be able to grant consent to a non-complying activity, a council must be satisfied that either the adverse effects of the activity on the environment will be minor (s104D(1)(a)), or the proposed activity will not be contrary to the objectives and policies of a proposed plan and/or plan (s104D(1)(b)). This consideration is commonly known as the 'threshold test' or the 'gateway test'. If either of the limbs of the test can be passed, then the application is eligible for approval, but the proposed activity must still be considered under Section 104. There is no primacy given to either of the two limbs, so if one limb can be passed then the 'test' can be considered to be passed.

As identified in the assessment above, the adverse effects of the activity on the environment will be minor and the proposed activity will not be contrary to the objectives and policies of the plan. As such the application can be considered under Section 104 and a determination made on the application as provided by Section 104B.

11.2 Section 108 – Recommended conditions of consent

As identified in the preceding assessment there are a number of recommended conditions of consent that will avoid, remedy or mitigate the potential adverse effects of the proposed activity on the environment. It is anticipated that the Council will adopt conditions relating to the following matters.

- 1) Provision of and for all works to be in accordance with a Construction Management Plan; and
- 2) Works to be in accordance with the recommendations of the Visual and Landscape Assessment, including restrictions on rock wall height, light reflectance values of materials and planting;

It is requested that the draft conditions be provided to 4Sight in advance of a decision being made on the application.

11.3 Section 125 – Lapsing of consent

The Act prescribes a standard consent period of five years in which all works must be undertaken, but this may be amended as determined to be appropriate by the Council. It is requested that the standard five year provision be applied in this case.

11.4 Section 35 – Monitoring charges

The Council is required to monitor the exercise of resource consents under Section 35 of the Act.

The applicant accepts a reasonable monitoring fee in accordance with the Council's monitoring fee system and that the Council may carry out its monitoring functions by way of inspections of the site during development of the proposal.

12 NOTIFICATION ASSESSMENT – SECTIONS 95A TO 95G OF THE ACT

12.1 Public Notification Assessment

Section 95A requires a council to follow specific steps to determine whether to publicly notify an application. The following is an assessment of the application against these steps:

12.1.1 Step 1: Mandatory public notification in certain circumstances

An application must be publicly notified if, under section 95A(3), it meets any of the following criteria:

- (3) (a) *the applicant has requested that the application be publicly notified;*
- (b) *public notification is required under section 95C;*
- (c) *the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.*

It is not requested the application be publicly notified and the application is not made jointly with an application to exchange reserve land. Therefore Step 1 does not apply and Step 2 must be considered.

12.1.2 Step 2: Public notification precluded in certain circumstances

An application must not be publicly notified if, under section 95A(5):

- (5) (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:*
- (b) *the application is for a resource consent for 1 or more of the following, but no other, activities:*
 - (i) *a controlled activity:*
 - (ii) *a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity:*
 - (ii) *a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:*
 - (iv) *a prescribed activity (see section 360H(1)(a)(i)).*

In this case public notification is not precluded, therefore Step 2 does not apply and Step 3 must be considered.

12.1.3 Step 3: Public notification required in certain circumstances

An application is required to be publicly notified if one of the following circumstances are met, under section 95A(8):

- (8) (a) *the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;*
- (b) *the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

None of the circumstances specified under section 95A(8)(a) exist.

In regards to section 95A(8)(b), the following assessment is made:

The adverse effects assessment under section 95D must discount adjacent land and positive effects, may take into account the permitted baseline and must consider the receiving environment.

The adjacent land (Section 95D(a)) is identified in Figure 11 below, and includes Lot 16 DP 3216 (Tuahine Crescent beach access), Lot 14 DP 3216 (Esplanade reserve), 10 Tuahine Crescent and 1 Tuahine Crescent.





Key:  = Subject site  = Adjacent land

Figure 11: Adjacent land

Section 9 contains a comprehensive assessment of environmental effects of the proposal. When taking into consideration the above matters, in terms of section 95D the adverse effects of the activity will be minor. In particular adverse effects in relation to visual amenity and landscape values, construction and earthworks, coastal processes and hazards, public access, biodiversity and cultural and archaeological values will be at most minor.

Therefore, Step 3 does not apply and Step 4 must be considered.

12.1.4 Step 4: Public notification in special circumstances

Section 95A (9) states that a council must publicly notify an application for resource consent if it considers that ‘special circumstances’ exist, notwithstanding that Steps 1 to 3 above do not require or preclude public notification.

Special circumstances are not defined in the Act. Case law though has identified special circumstances as something outside the common run of things which is exceptional, abnormal or unusual but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite

the general provisions excluding the need for notification. The council should be satisfied that public notification may elicit additional information on the aspects of the proposal requiring resource consent.³

However, special circumstances must be more than:

- where a council has had an indication that people want to make submissions;
- the fact that a large development is proposed;
- the fact that some persons have concerns about a proposal.

There are no special circumstances that exist to justify public notification of the application because the proposal involves the construction of a replacement seawall. This type of proposal in the context of a coastal environment is neither exceptional or unusual.

12.1.5 Public Notification Summary

From the assessment above it is considered that the application does not need to be publicly notified, but assessment of limited notification is required.

12.2 Limited Notification Assessment

If the application is not publicly notified, a consent authority must follow the steps of section 95B to determine whether to give limited notification of an application.

12.2.1 Step 1: Certain affected groups and affected persons must be notified

The application must be limited notified to the relevant persons if the following are determined, as specified by section 95B(2) and (3):

- (2) (a) *affected protected customary rights groups; or*
 (b) *affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).*
- (3) (a) *whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and*
 (b) *whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.*

³ *Far North District Council v Te Runanga-a-iwi o Ngati Kahu* [2013] NZCA 221 at 36–37

There are no protected customary rights groups or customary marine title groups or statutory acknowledgement areas that are relevant to this application. Therefore Step 1 does not apply and Step 2 must be considered.

12.2.2 Step 2: Limited notification precluded in certain circumstances

In the following circumstances an application must not be limited notified to any persons, as specified by section 95B(6):

- (6) (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;*
- (b) *the application is for a resource consent for either or both of the following, but no other, activities:*
 - (i) *a controlled activity that requires consent under a district plan (other than a subdivision of land);*
 - (ii) *a prescribed activity (see section 360H(1)(a)(ii)).*

There is no rule in the plan or national environmental standard that precludes notification. The application is not for a controlled activity nor a prescribed activity. Therefore Step 2 does not apply and Step 3 must be considered.

12.2.3 Step 3: Certain other affected persons must be notified

Other affected persons must be notified in the following circumstances specified by section 95B(7) and (8):

- (7) (a) *in the case of a boundary activity, an owner of an allotment with an infringed boundary; and*
- (b) *in the case of any activity prescribed under section 360H (1) (b), a prescribed person in respect of the proposed activity.*
- (8) *In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.*

The proposal is not for a boundary activity nor is it a prescribed activity.

In deciding who is an affected person under section 95E, a council under section 95E(2):

- (2) (a) *may disregard an adverse effect of an activity on a person if a rule or national environmental standard permits an activity with that effect (i.e. council may consider the “permitted baseline”);*
- (b) *must disregard an adverse effect that does not relate to a matter for which a rule or environmental standard reserves control or restricts discretion; and*
- (c) *must have regard to every relevant statutory acknowledgement made in accordance with a statute set out in Schedule 11 of the Act.*

A council must not consider that a person is affected if they have given their written approval or it is unreasonable in the circumstances to seek that person's approval.

With respect to section 95B(8) and section 95E, the permitted baseline was considered as part of the assessment of environmental effects undertaken in Section 9 of this report, which found that the potential adverse effects on the environment will be, at most, minor. In regards to effects on persons, the assessments in sections 9 and 10 are also relied on and the following specific comments are made:

12.2.3.1 Public reserve (Lot 16 DP 3216)

The adjacent property to the north (Lot 16 DP 3216) is a public reserve providing access from Tuahine Crescent to the beach and which is owned by Gisborne District Council. The site is used as a thoroughfare by persons to travel to and from the beach, such as the public and council maintenance workers, and therefore persons on this property are limited to short term visitors. There are no permanent persons on this property, nor are there any public bathroom or camping facilities available.

The effects of the proposal on these persons has been assessed in the Visual and Landscape Assessment at **Appendix E**, which considers that there will be moderate visual effects on persons at this property in the short term (0 to 3 years) due to the noticeable increase the height of the rock material when viewed from the north-eastern end of the public reserve. This is considered to decrease to a low visual effect on persons in the medium to long term (after 3 years) as natural weathering and driftwood accumulation enable assimilation into the environment. The assessment recognises that *"While the proposed rock revetment will form a change within these viewshafts, it sits below the main panoramic view of the shore, ocean and horizon when viewed from viewpoint 4... however given the staircase is orientated out towards the east panoramic view, which is preserved, the rock revetment is more visible as a peripheral element in the wider view composition"*, and *"the overall visual effects for this viewing audience will be of moderate effect, given that the rock revetment will form a change within the wider view, however it will not have a marked effect on the character and quality of the broader panoramic view due to its low profile, continuing use of local rock material already present on site, and removal of the most visually dominant existing element: the iron bars"*.

The assessment also notes that *"The proposed rock revetment will appear very similar to the existing situation from the perspectives of this viewing audience, particularly as the prevalence of rock will form the majority of the approaching view. As the iron bars which characterise and currently dominate this view will be removed, the rock revetment "front line" will be less visually dominant for this audience"*.

As such, while there will be discernible visual change, the assessment recognises that the visual effect will decrease over time, the proposal will not detract from the panoramic view of the ocean and horizon and it will not represent a significant change in the visual character of the site.

Furthermore, the nature of persons on this property is a relevant consideration. Persons at this property are either walking to/from the beach or council maintenance workers such that their presence on the site is generally limited to, at most, a single day, ensuring that even in the short term, the proposal will have only transient visual effects on persons.

Taking the sensitivity and nature of persons at this property, the design and materiality of the proposed seawall and the reduction of visual effects over time into account, it is considered that, overall, the effects on persons at the public reserve to the north will be less than minor.

12.2.3.2 Esplanade reserve (Lot 14 DP 3216)

The adjacent property to the east is the esplanade reserve (Lot 14 DP 3216) which forms part of the beach and is owned by Gisborne District Council. The site is used as part of the beach and is accessed by the public. There are no permanent persons on this property. Persons on this property are better categorised as persons on the beach, on which adverse effects have been assessed in Section 9 above. Notwithstanding, an assessment of effects on persons at this property is provided below.

The effects of the proposal on persons has been assessed in the Visual and Landscape Assessment at **Appendix E**. The assessment splits persons on the esplanade reserve as southern beach users (Viewing Audience A) and those persons directly in front of 4 and 6 Tuahine Crescent (Viewing Audience D).

12.2.3.2.1 Southern beach users

In terms of southern beach users, the assessment considers that any adverse visual effects of the proposal on persons will be very low as the existing groyne will obstruct the majority of views of the proposed seawall. Users of this part of the beach will view, at most, the very top of the proposed seawall and planting, which will soften and integrate the seawall into the vegetated cliff. As such, it is considered that adverse visual effects on persons will be less than minor due to the separation distances and visual integration of the proposed seawall into the wider coastal landscape.

12.2.3.2.2 Persons in front of 4 and 6 Tuahine Crescent

In terms of persons directly in front of 4 and 6 Tuahine Crescent, the assessment considers there will be a low visual effect in the short term (0 to 3 years) which will diminish to a low effect in the medium to long term (after 3 years) for the same reasons identified in Section 12.2.3.1 above. The assessment notes that *“The height of rock revetment up against the bank and existing vegetation will form the most obvious change in visual appearance from the current rock revetment”*, however *“The use of timber posts, when viewed from this angle represents a visual softening when viewed in comparison to the line of iron bars that currently characterise the site. Background vegetation, proposed revegetation, and the wall sitting low within this view enable the wall to appear more nestled and integrated, particularly when approaching the site from the north. The overhanging and bordering vegetation on the bank will also be able to provide more softening and integration over time”*.

In addition, the assessment notes that while *“the proposed rock revetment will form a visible and recognisable change or new element within the overall scene which may be noticed by this viewing audience, [however] when assessed against the existing rock revetment situation and the receiving environment, consists of only a minor detractor in the overall quality of the scene”*.

Similarly, to persons on the public reserve to the north (Lot 16 DP 3216), the nature of persons at this property is a relevant consideration. Persons at this part of the property (in front of 4 and 6 Tuahine Crescent) will be beach users and their presence on the beach will be short term and affected by tidal cycles), ensuring that even in the short term, the proposal will have transient visual effects on persons.

Based on the specialist’s assessment and additional comments above, it is considered that whilst there will be a visual change, the proposal will not detract from the visual amenity of persons in this location

and the extent of visual change will reduce over time, such that overall, any effects are considered to be less than minor.

12.2.3.3 10 Tuahine Crescent

10 Tuahine Crescent is the residential property to the south. There will be no adverse effects on persons at 10 Tuahine Crescent as the proposed seawall will not be visible due to the topography of the site and screening by existing vegetation.

12.2.3.4 1 Tuahine Crescent

1 Tuahine Crescent is the residential property to the west. There will be no adverse effects on persons at 1 Tuahine Crescent due to the location of the works and sufficient separation distances.

12.2.3.5 Other persons

No other persons are considered to be adversely affected by the proposal due to the scale and nature of the proposed seawall, screening by vegetation and the topography of the landscape and relative separation distances.

12.2.3.6 Summary

Based on the preceding assessment, no persons will be affected to a minor or more than minor degree.

12.2.3.7 Statutory Acknowledgements

There are no statutory acknowledgements that are relevant to this application.

12.2.4 Step 3 Summary

Overall, the adverse effects on any persons are considered to be less than minor. Therefore Step 3 does not apply and Step 4 must be considered.

12.2.5 Step 4: Further notification in special circumstances

As required by section 95B(10), a council must determine the following:

(10) whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons)

The proposal is for a replacement seawall and consideration of effects on any person has been undertaken at Step 3 where it was considered these are less than minor. As such it is not considered there are any other persons who would warrant notification of the application.

12.2.6 Limited Notification Assessment Summary

Overall, from the assessment undertaken Steps 1 to 4 do not apply and there are no affected persons.

12.3 Notification Assessment Conclusion

Pursuant to sections 95A to 95G it is recommended that the Council determine the application be non-notified for the following reasons:

- In accordance with section 95A Step 1, mandatory public notification is not required;
- In accordance with section 95A Step 2, public notification is not precluded;
- In accordance with section 95A Step 3, the circumstances requiring public notification do not apply, including that the adverse effects on the environment will be minor;
- In accordance with section 95A Step 4, there are no special circumstances to warrant public notification.
- In accordance with section 95B Step 1, there are no groups to whom the application must be limited notified;
- In accordance with section 95B Step 2, limited notification is not precluded;
- In accordance with section 95B Step 3 and section 95E, there are no such classes of affected persons;
- In accordance with section 95B Step 4, there are no special circumstances to warrant limited notification.

13 PART 2 ASSESSMENT

13.1 Section 5 - Purpose of the Act

Section 5 in Part 2 of the Act identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

It is considered that the proposal accords with the purpose of the Act and will not have an adverse effect on the sustainable management of natural and physical resources. The effects of the proposal in terms of adverse effects on the environment are discussed in detail in section 9 of this report.

13.2 Section 6 - Matters of National Importance

Section 6 of the Act sets out a number of matters of national importance.

Matters relevant to this application include:

- (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;
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;

- (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 is not considered to affect any matter of national importance for the reasons set out in sections 9 and 10. The proposal will maintain the natural character of coastal environment and outstanding landscapes and consultation with relevant iwi is being undertaken to ensure their relationship with their culture, traditions and ancestral lands is upheld. The proposal will maintain public access to and along the CMA and appropriately manage significant risks from coastal inundation hazards.

13.3 Section 7 - Other Matters

Section 7 identifies a number of "other matters" to be given particular regard to in the consideration of any assessment for resource consent.

Matters relevant to this application include:

- (a) the efficient use and development of natural and physical resources;
- (b) the maintenance and enhancement of amenity values; and
- (f) maintenance and enhancement of the environment.

The proposal is not considered to adversely affect any of these matters for the reasons identified in sections 9 and 10 of this report.

13.4 Section 8 - Treaty of Waitangi

Section 8 requires the principles of the Treaty of Waitangi to be taken account of. It is considered that the proposal raises no Treaty issues. Consultation is currently being undertaken to ensure any requests or cultural issues raised can be addressed and accommodated.

14 CONCLUSION

The applicant seeks resource consent to demolish the existing rock and rail seawall and to construct a replacement timber pile rip-rap seawall at 4, 6 and 8 Tuahine Crescent, Wainui.

From the assessment undertaken, it is considered that adverse effects on the environment are, at most, minor as discussed in sections 9 and 10 of this report, and such effects can be suitably avoided, remedied or mitigated through the conditions of consent offered as part of this application. No persons will be adversely affected by the proposal and there are no special circumstances. As such, the application does not need to be publicly or limited notified.

In terms of section 104(1)(a) of the Act, the actual and potential effects of the proposal will be acceptable, as discussed in sections 9 and 10 of this report. In particular, the proposal will provide positive effects including the improvement of visual amenity and landscape values on the site and coastal environment

and the provision of a replacement seawall to ensure the safety and protection of people and property from coastal erosion and hazards.

In terms of section 104(1)(b) of the Act, the proposal is found to be generally consistent with the objectives, policies and assessment criteria of the relevant statutory documents as set out in Section 10.

As such, in terms of section 104D of the Act, the proposal is found to meet both 'limbs' of the gateway test.

Hence, in accordance with section 104B of the Act in relation to non-complying activities, it is considered appropriate for consent to be granted on a non-notified basis, subject to fair and reasonable conditions