

**BEFORE THE INDEPENDENT HEARING PANEL
AT GISBORNE**

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER OF resource consent applications by **Gisborne District Council – Rivers and Land Drainage** for the construction and upgrading of approximately 4.2 kilometres of stopbanks, associated earthworks, road raising, drainage and stormwater infrastructure, works within and adjacent to the Waipaoa River, temporary water take and discharge activities during construction, vegetation clearance, temporary access works, service relocations, and landscape planting and site reinstatement, referred to as the Te Karaka Stopbank Flood Protection Scheme upgrade.

LEGAL SUBMISSIONS ON BEHALF OF THE JRD AND PA COATES FAMILY TRUST

Introduction

1. These submissions are presented on behalf of the JRD and PA Coates Family Trust and members of the Coates family (**Coates Family**).
2. The Coates Family is a submitter on the resource consent applications by Gisborne District Council – Rivers and Land Drainage (**GDC**) for the Te Karaka Stopbank Flood Protection Scheme upgrade (**Application** or **proposal**).
3. The Coates land is upstream of Te Karaka, located at 48, 62, 62a and 76 Whatatutu Road, Puha, Te Karaka (**Coates Farm**). The Coates Family have farmed that land for over four generations. See Map 1 below.



Map 1: Outline of Coates Family Farm

4. The Coates Family supports the objective of improving flood resilience for the Te Karaka community. The devastating effects of major flood events in the district are well known by the Coates Family and the desire to better protect people and their homes is supported.
5. These submissions are therefore not directed at whether flood protection is required, and nor do they seek to diminish the public benefits of the proposal. Rather, these submissions raise the narrower issue of whether the consequential flood effects identified by the Applicant on a number of upstream properties, including the Coates Farm, have been adequately identified, assessed and addressed.

Background and scope of submissions

6. Cyclone Gabrielle overtopped the existing stopbanks at Te Karaka and caused extensive flooding within the Te Karaka settlement in February 2023. The Coates Farm was also flooded during Cyclone Gabrielle and the Coates Family tragically lost a family member during that event.

7. With me today is:
 - (a) Mr Chris Coates on behalf of the Coates Family; and
 - (b) Mr Ramon Strong, who has provided independent technical evidence addressing the assessment of flooding effects.
8. These submissions address the following topics:
 - (a) Coates Family position;
 - (b) The primary issue;
 - (c) Evidential burden;
 - (d) Consequential flood effects;
 - (e) Avoid, remedy or mitigate; and
 - (f) Relief sought.

Coates Family position

9. The Coates Family do not oppose flood protection for Te Karaka.
10. Their concern is that some of the benefits of the scheme are achieved by increasing flooding effects on a relatively small number of upstream landowners outside the protected area. Importantly, this is not a hypothetical concern. GDC's own assessment identifies increases in flood depth and hazard affecting the Coates Farm.
11. The Coates Family are therefore not seeking protection from a speculative risk, but rather, proper consideration of effects identified by the Applicant itself.

The primary issue

12. Fundamentally, this hearing is not about whether Te Karaka should receive improved flood protection. Nor is it about whether the proposal will deliver public benefits. It is clear that it will.

13. The central question for the Panel is whether it is acceptable to increase flooding effects on a small number of upstream properties in order to achieve those benefits, and if so, whether those increased effects have been properly identified and assessed, and appropriately avoided, remedied or mitigated.

Evidential burden

14. The Coates Family are local farming landowners who have participated constructively in this consenting process because of the potential effects on their property. Participation in a resource consent process involving complex flood modelling and engineering assessments requires a significant investment of time and expense for private submitters. The Family has nevertheless endeavoured to clearly identify the matters of concern and has obtained independent expert assistance to the extent possible.
15. However, while submitters are expected to identify matters of concern, the evidential burden remains on the Applicant to satisfy the Panel that the actual and potential effects of the proposal have been adequately assessed and addressed.¹
16. The Coates Family's concern is that legitimate questions remain regarding the accuracy of the modelling undertaken, the extent of property-specific effects and the adequacy of the proposed mitigation. Concerns with the modelling are addressed further in the evidence of Mr Strong.

Consequential flood effects

17. Section 104 of the RMA requires the Panel to consider the actual and potential effects of allowing the proposal.

¹ *Re Meridian Energy Ltd* [2013] NZEnvC 59, at [56]; *Ngāti Rangī Trust v Genesis Power Ltd* [2009] NZRMA 312 at [23].

18. Importantly, the issue is not whether effects exist. GDC's own assessment identifies increased flood depth and flood hazard affecting the Coates Farm.² The principal issue is the extent of those effects and whether they have been adequately assessed and addressed.
19. The Coates Farm is already subject to significant flood risk and the Family has firsthand experience of the devastating consequences of major flooding events. However, the existence of an existing flood hazard does not make additional flooding effects insignificant. Quite the opposite.
20. The Coates Family's primary concern is that the assessment of the consequential flood effects remains uncertain. As explained in the evidence of Mr Strong, these concerns are not confined to the magnitude of the predicted effects alone, but also relate to confidence in the assessment itself. This includes in relation to the methodology, assumptions and completeness of the modelling relied upon to assess the effects on the Coates Farm.
21. This is particularly important given the identified effects relate to flooding of productive rural land within a dynamic flood environment that continues to evolve over time. The Council's assessment has been focused on effects on residential dwellings. However, the effects on the productive use of already vulnerable farmland, buildings and equipment have not been assessed to the same level of detail as effects on residential properties.
22. Further, any uncertainty in the modelling will be borne almost exclusively by upstream landowners. The upgrade of the stopbank is intended to provide Te Karaka with enhanced flood protection for decades.³ Even if the modelling has overstated the level of protection achieved, Te Karaka residents will nevertheless continue to receive flood protection benefits for many years. By contrast, if the modelling has understated the extent of upstream effects, the consequences will be experienced by the Coates Family from the moment the upgraded stopbank becomes operational.

² See Te Karaka Consequential Flood Risk Assessment by Tonkin & Taylor (Appendix 8 of the Application). See also section 42A Report, section 5.3.1.

³ See section 42A Report at section 5.3, paragraph 2.

23. Given the Family's past experience of flooding on the Farm, even a relatively small increase in flood levels, flood duration or flood hazard could have significant practical effects. The uncertainty in the modelling is further discussed in the evidence of Mr Strong.
24. The Council evidence also identifies ongoing aggradation within the Waipaoa River catchment and increasing flood risk over time.⁴ While GDC considers that aggradation does not materially alter the comparative assessment of the proposal, it reinforces that the Farm sits within an already vulnerable and changing flood environment. Ongoing aggradation is therefore relevant when assessing the magnitude and significance of the proposal's effects. As discussed in the evidence of Mr Strong, it has not been taken into account in the latest Council modelling.

Other effects

25. Consequential flooding effects are not limited to physical and hydraulic effects. They also have social and economic dimensions. This is acknowledged in the evidence of Mr Exeter for the Council.⁵
26. The Coates Farm includes both a family home, occupied by a retired farm employee, and a working farming operation. Increased flood depth, duration or hazard has the potential to affect not only the land itself, but also the productive use of that land, farm management decisions, stock movements, access, and the long-term resilience of the farming operation.
27. Mr Exeter acknowledges that the adverse effects of the proposal are concentrated on a relatively small number of identified properties and people outside the protected area and that those effects may extend to how affected landowners live on and use their properties.⁶

⁴ See Mark Hooker Flooding Effects Evidence submitted on behalf of GDC, dated 14 September 2026 at paragraph 1.6, page 1 and paragraph 10.9, page 15; Sven Exeter Planning Evidence submitted on behalf of GDC, dated 14 September 2026 (**Exeter Evidence**) at paragraphs 16.19, pages 32 – 33; and the section 42A Report, section 5.3, paragraph 2. See also DHI Te Karaka Flood Resistance Report, dated 13 April 2026 which assesses options with and without aggradation.

⁵ See Exeter Evidence at paragraphs 14.47 – 14.59, pages 22 – 25.

⁶ Refer Exeter Evidence at paragraphs 14.47 – 14.59, pages 22 – 25.

28. The Coates Family respectfully submit that these social and economic effects should be considered alongside the physical flooding effects when assessing the overall consequences of the proposal for affected landowners.

Avoid, remedy or mitigate

29. Section 5 of the RMA directs decision-makers to promote sustainable management while avoiding, remedying, or mitigating any adverse effects of activities on the environment. Those principles remain relevant when considering a proposal that delivers public benefits and also imposes adverse effects on a smaller number of upstream landowners.
30. A key feature of the proposal is that it involves a deliberate redistribution of flood impacts. The scheme provides increased protection to the Te Karaka township, while increasing flood effects elsewhere.
31. Whether that outcome is ultimately justified is a matter for the Panel. However, if the proposal is to proceed, the resulting adverse effects on upstream properties should be appropriately avoided, remedied or mitigated.
32. GDC accepts that the proposal will increase flooding effects on a number of properties outside the protected area. The remaining question is whether those effects have been adequately addressed through appropriate and enforceable mitigation. GDC's evidence states that adverse effects can be managed through future mitigation measures, detailed design, property-specific discussions, or other responses implemented after consent is granted.⁷
33. The difficulty for the Coates Family is that many of those measures remain uncertain and undefined and, for the Coates property, there is presently no agreed property-specific mitigation. Nor is there certainty regarding whether those measures will fully address the adverse effects of the proposal.

⁷ Refer Exeter Evidence at paragraphs 17.16, page 48 and paragraph 18.13, page 53.

34. In those circumstances, the Panel is being asked to authorise known adverse effects while aspects of the proposed response remain unresolved and may be deferred to future processes.
35. Counsel respectfully submits that caution is needed when a Panel is being asked to rely on future mitigation measures that have not yet been fully designed, agreed or tested. Where adverse effects have been identified, the Panel should be satisfied that any proposed mitigation will occur, will be effective and will be capable of being enforced through consent conditions.
36. The fact that the proposal produces significant public benefits does not remove the need to address the adverse effects experienced by those properties that bear the burden of those benefits.

Relief sought

37. The Coates Family's primary concern is to ensure that the effects on their property are fully understood and appropriately addressed.
38. Counsel respectfully submits that on the evidence currently before the Panel, it cannot be satisfied that the extent of consequential flooding effects on upstream properties is sufficiently understood, or that appropriate mitigation measures have been identified and assessed. In those circumstances, further information and assessment should be obtained before a decision is made on the Application.
39. However, if the Panel determines that consent should be granted, the Coates Family request conditions that:
 - (a) require further property-specific assessment of effects on the Coates Farm;
 - (b) require property-specific mitigation measures to be identified, agreed and implemented prior to operation of the upgraded scheme;

- (c) require appropriate monitoring and reporting of actual flooding effects following implementation of the upgraded scheme and include mechanisms for review and further mitigation should actual effects exceed those predicted by the modelling; and
- (d) provide a clear process for addressing residual adverse effects that cannot be adequately mitigated.

Conclusion

- 40. The Coates Family acknowledge the importance of improving flood resilience in Te Karaka.
- 41. However, the evidence before the Panel also identifies consequential flooding effects on a small number of upstream properties outside the protected area, including the Coates Farm.
- 42. The Coates Family's concern is whether their extent and significance have been sufficiently understood and whether the proposed response to those effects is appropriate and sufficiently certain.
- 43. The evidence of Mr Strong identifies legitimate questions regarding the assessment of those effects. In those circumstances, the Coates Family respectfully submit that caution is warranted before reliance is placed on mitigation measures that remain to be developed, agreed or implemented in the future.
- 44. The Coates Family therefore respectfully request that the Panel carefully consider:
 - (a) the adequacy of the assessment undertaken;
 - (b) the certainty of the consequential flood effects identified;
 - (c) the adequacy of the mitigation currently proposed;
 - (d) the effectiveness and enforceability of the mitigation that is proposed; and
 - (e) whether any additional information or property-specific assessment is required before a decision is made.

45. If consent is granted, the Coates Family request conditions that provide clear, effective and enforceable mechanisms for assessing, monitoring, reviewing and addressing property-specific effects should actual effects differ from those predicted.

DATED at Tauranga this 25th day of September 2026



Sarah Janet Eriksson

Counsel for the JRD and PA Coates Family Trust and members of the Coates family