

Before the Independent Hearing Commissioners appointed by
Gisborne District Council — Te Kaunihera o Te Tairāwhiti

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

In the matter of applications LR-2026-113441-00, LV-2026-113442-00, LL-2026-113443-00 and WS-2026-113444-00 by Gisborne District Council (Rivers and Land Drainage) under section 88 of the Act for land use, vegetation clearance, works in a river bed, earthworks and water take activities for the Te Karaka Flood Scheme Upgrade, Te Karaka, Tairāwhiti

Statement of rebuttal evidence of Sven Paul Exeter on behalf of Gisborne District Council (Rivers and Land Drainage)

Planning and resource management

24 September 2026

MC.

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1 Response to submitter evidence

- 1.1 My qualifications and experience are set out in my statement of evidence in chief (EiC) dated 14 September 2026. I confirm that I have read and will comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This rebuttal responds to the submitter evidence filed on 21 and 22 September 2026. Paragraph references to my EiC use its numbering. Where I do not respond to a point, that does not mean I accept it.

Mr Muir (planning) on behalf of the M & W Burgess Family Trust

- 1.2 Section 104D(1)(b). Mr Muir concludes that the proposal fails the objectives and policies gateway (Muir, 12.19–12.20) but, other than Tairāwhiti Resource Management Plan (TRMP) Policy C6.3.12(2), he does not identify the provisions the proposal is said to be contrary to. Therefore my assessment below is limited to only that policy. If the Panel requires any further planning assessment, I would be able to provide this at the hearing and the before the hearing is closed.

- 1.3 To recap, Policy C6.3.12(2) of the TRMP states:

Provide for the damming, diversion and drainage of streams, rivers and lakes only where:

a) It is reasonably necessary to provide for the benefits outlined in Policy C6.3.12.1;

b) There is a functional need to do so;

c) There is no practical alternative; and

d) Significant effects are avoided or other adverse effects are avoided, remedied or mitigated.

- 1.4 Sub policy 'a' and 'c' are not contested by Mr Muir but 'b' and 'd' are.
- 1.5 Functional need “means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment”. The proposed stopbank quite clearly must be located where it is proposed given the flood impacts on the Te Karaka township.
- 1.6 It is considered that the adverse effects on the Burgess property are not significant (as outlined below) and any significant adverse effects outside of the Burgess property will be mitigated to an acceptable level (refer below).
- 1.7 In my opinion, “contrary to” requires more than a failure to meet one limb of one policy. Read ‘as a whole’, the Project delivers the outcomes the TRMP’s objectives seek for the great majority of people at risk, identifies the existing environment flood risk and Project flooding effects openly, and has responded to them through a design response and bespoke consent conditions. I remain of the opinion that the proposal is not contrary to the aforementioned policy of the TRMP and all relevant TRMP objectives and policies as already assessed in the Application and my EiC, on both the flap-gate-only and the bundled scenarios.

- 1.8 For the flap gate alone, I also consider the adverse effects are no more than minor and there would be positive effects, as fish passage is proposed to be improved for the reasons in section 12 of the Application and as set out in my EiC. So section 104D(1)(a) is met for that component in any event.
- 1.9 In regard to bundling, Mr Muir relies on Mr Foote's EiC (Paragraph 7.1) that without the flaps a surface flooding pathway would remain flowing towards the township (Muir, 12.16(d)). That pathway is within the protected area. It is not the source of the consequential flooding on the Burgess Family Trust's land, which arises from the eastern stopbank alignment. My position at EiC (Paragraphs 12.6–12.10) is unchanged. Because I have assessed both scenarios, nothing turns on it for the gateway.
- 1.10 I maintain my recommendation that conditions 69 and 70 be deleted (EiC 17.11–17.18). Mr Muir is right that deleting them does not, of itself, mitigate the flood velocity effect on the orchard (Muir, Paragraph 8.26). The RMA responses available are refinement of the eastern alignment near 2416 Matawai Road where practicable and the construction-phase conditions. I accept that, beyond any alignment refinement, conditions cannot fully mitigate the operational effect on permanent horticulture. It is however only a residual minor adverse effect that does not warrant mitigation, given that the property is already exposed to flooding and in the design event flood modelling pre-upgrade vs post upgrade remains the same as H5.
- 1.11 I agree with Mr Muir (Paragraph 9.5) that the remaining information gaps should be resolved through the hearing rather than by declining consent. The amended eastern alignment should be included in the approved plans schedule (Muir, 9.2), and I have amended condition 1 accordingly.

Consent Conditions

- 1.12 Comments on the condition section of Mr Muir's evidence is as follows:
- (a) General Conditions 1: agreed.
 - (b) General Conditions 2: disagree. This is not the intent of the condition. It is a standard condition adopted from similar resource consent projects and other conditions manage non-building matters.
 - (c) Condition 8: Construction Season & Hours of Operation: disagree. The October to April season is arbitrary and does not reflect day to day effects nor the changing climate. Reducing the construction season will only prolong the construction works and add costs to the community which are considered unwarranted.
 - (d) Condition 9: Minor works: disagree. The noise limits should suffice. However, for context, minor works would include but not be limited to site set up, relocation of fences and gates, access track works and the like. I consider having to lay out a long list of activities that would be considered minor works is unnecessary. However, a list can be generated if required by the Applicant team and this could perhaps be part of an advice note.
 - (e) Condition 10: Construction activities: disagree. Refer to Mr J Exeter's evidence.

- (f) Condition 11: Construction Environmental Management Plan (CEMP): disagree. I do not think that the provision of a management plan now would add much value provided that the management plan condition sets key objectives, guardrails and limits. A construction contractor is yet to be onboarded and the CEMP would be a contractor deliverable. In my opinion the approach I have taken is standard practice for these types of projects and the scale of the activity. By providing a management plan now this would reduce the ability for a construction contractor to add-value and innovate etc.
- (g) Condition 13: CEMP certification: agree. Cross referencing track change issues is expected to be corrected in due course.
- (h) Condition 22: Communications Plan: agreed.
- (i) Condition 33(c): Construction Noise & Vibration Plan: disagree. Refer to Mr J Exeter's evidence.
- (j) Condition 35: Construction noise limits: disagree. Refer to Mr J Exeter's evidence.
- (k) Condition 56: Construction noise limits: disagree. Refer to Mr J Exeter's evidence.
- (l) Condition 78: Trust-specific condition: I would be happy to discuss and work together with the Applicant, Ms Michalakakis, the submitter and Mr Muir on updating this condition at the hearing and any other conditions that the Panel directs to achieve a robust and workable consent. Ms Michalakakis and I have already collaborated on drafting some consent conditions together which was useful. Note at the time of writing my rebuttal evidence, I had not seen Mrs Burgess's evidence which may shed some light on the consent conditions as alluded to in Mr Muir's evidence where he states, "*the evidence of Mrs Burgess describes other matters which are not addressed in the condition*".

Mr S Wilson (horticulture) on behalf of the M & W Burgess Family Trust

- 1.13 I am not a horticultural expert nor a flood expert and do not dispute Mr Wilson's evidence that suggest that an increase in flood velocity may physically impact the orchard plants and yields. However, the consequential flood risk assessment and Mr Hooker's EiC notes that the expected flood waters levels would be less in the both the Cyclone Gabrielle post upgrade and design flow event post upgrade and that "*faster flowing water also has less potential to deposit fine sediment, which may have a bearing on the amount of damage from silt deposition*".¹
- 1.14 The submission noted that during Cyclone Gabrielle silt that was deposited across the property was a key issue along with the floodwaters that damaged "*infrastructure like metre boxes and pumps*".² Mr S Wilson's evidence outlines a 38% loss in the average yields and income to those achieved pre cyclone Gabrielle.

¹ Evidence of Mark Hooker at [10.29].

² Submission of Wendy and Muray Burgess at Appendix 1.

- 1.15 Mr Muir notes: *“Mr Wilson’s conclusion is the Protection Scheme will increase the risk and cost of horticulture redevelopment on the property to such an extent that the future land use will need to change over time to less intensive farming regimes such as arable cropping or stock grazing. In my view, this is a significant adverse effect on the Trust’s social and economic wellbeing and is a matter that goes to the heart of a Part 2 assessment under the RMA.”*³
- 1.16 In my view the Project effects should be considered in the context of the existing environment (i.e. flood effects are already pronounced as parts of the submitter’s property is on a river terrace), and considered with regard to the wider benefits to the community that the Project will deliver.
- 1.17 The Burgess Family Trust can in the near term continue to use the land as an orchard and in the future if needed to, they could utilise the land for arable cropping or stock grazing. Hence the Project continues to enable the submitter to provide for their social and economic welling. Use of land that is prone to floods for horticulture or farming activities is a good use of land and this is the essence of town planning i.e. allowing activities to occur on land which are suitable and which makes sense from a proportionate risk-based perspective.
- 1.18 In conclusion, I disagree that there will be significant economic and social adverse effects on the Burgess Family Trust, and the effects that Mr Muir describes above would be closer to minor.

Mr Strong (river engineering) on behalf of the JRD and PA Coates Family Trust

- 1.19 Mr Strong does not say the modelling is wrong. He accepts that the methodology and general approach appear satisfactory, that the modellers and peer reviewer are appropriately qualified, that any peer review omissions are not substantive, and that the optioneering appears sound (Strong, Paragraphs 18, 32, 36 and 53). His concern is the confidence that can be placed in the results, particularly catchment hydrology, the peer review process, grid resolution over the Coates property and aggradation (Strong, Paragraphs 50–51 and 61–64). Mr Foote and Mr Hooker have provided adequate responses to these matters.
- 1.20 From a planning perspective, Policy 5 of the NPS-NH requires decisions on the best available information, even where it is uncertain (EiC 15.12). TRMP Policy C8.1.4(7) seeks a precautionary approach where effects are difficult to assess. In my opinion no additional condition is needed to respond to Mr Strong’s concerns. Condition 2 holds the final design to the effects already assessed. Condition 84 requires post-flood inspection and repair. Longer-term aggradation is a matter for the scheme’s ongoing review and floodplain management planning (EiC 16.20–16.21). Mr Strong’s own conclusion is that the effects on the Coates property “may be relatively modest” (Strong, 63), and nothing in his evidence shows they have been understated.

Mr D Moran (88 Rangatira Road) – bridges and property

- 1.21 Mr Moran’s bridge evidence (sections 2–4) seeks a condition requiring the Rangatira Road bridge to be structurally upgraded or rebuilt before any

³ Evidence of Ross Muir at [7.4].

stopbank works start. For the reasons at EiC (Paragraphs 14.12–14.16), I remain of the opinion that requiring bridge strengthening or replacement as a prerequisite to consent would be disproportionate. The bridges are already exposed to substantial risk in the design event, and declining the Project would not remove that risk.

Ms J Moran (88 Rangatira Road)

- 1.22 I acknowledge Ms Moran’s account of Cyclone Gabrielle, including the death of Mr John Coates and the near misses she describes.
- 1.23 Ms Moran’s central request is that consent be declined in favour of managed retreat. The Applicant does not claim the Project eliminates flood risk (EiC 16.65). Alternatives, including relocation, were assessed (EiC Theme 1), and the residual risk, levee effect and evacuation matters are addressed at EiC Theme 12 and in Mr Ruifrok’s evidence. In my opinion, the fact that a scheme is medium-term does not make it inappropriate where it substantially reduces an existing risk to life in the meantime.
- 1.24 However, I agree that managed retreat is a core planning issue that needs to be considered in the future for the Te Karaka township and towns across New Zealand that are prone to flooding. However, such a consideration is outside the scope of this RMA process. It would require extensive community engagement and ideally support, and would need to be addressed at a more higher order planning level, which Ms Moran outlines.
- 1.25 Ms Moran seeks several conditions including a climate-risk insurability assessment, and indemnity or residual liability agreements, are not directed at an effect on the environment and are outside the scope of conditions under the RMA. Debris clearance at the bridges is already part of the Applicant’s standard operations. Post-event inspection of the stopbank is already required by condition 84, and I do not consider a separate performance audit condition is needed. For the reasons given for Mr Moran, a secondary bund and pumping protocol at 88 Rangatira Road are not warranted based on the consequential flood risk assessment and Mr Hooker’s evidence.
- 1.26 Section 8 and Te Tiriti o Waitangi are addressed at in my EiC (section 18).

Mr and Mrs Manuel (Pine Hollow Riding School, 2424 Matawai Road)

- 1.27 I do not accept the “instant pause” protocol Mr and Mrs Manuel propose (Manuel, 21–24). It is too difficult to enforce (refer s108 RMA) and is not standard practice for managing noise effects. I rely on Mr J Exeter’s evidence and agree with his suggested approach instead.
- 1.28 On their water supply (Manuel, Paragraphs 34–35), it is noted that Rule 6.2.6(1) of the TRMP provided for the ‘*Use, maintenance or reconstruction of existing domestic groundwater bores and other groundwater bores, wells and holes lawfully established prior to the date of notification of this Plan provided well integrity is maintained in accordance with Appendix H21*’ as a permitted activity. The well could have indeed been lawfully established and I will endeavour to check with the GDC regulatory team regarding this matter during the hearing. In my experience old well records in council databases can have mapping and GPS

data errors so the well could indeed be on the GDC database but does not show up at the submitter's property on the GDC GIS due to the co-ordinate errors.

- 1.29 Truck and float movements at the second driveway, and the performance of the stopbank culverts (Manuel, Paragraphs 28 and 37–38), are matters for Mr Randall and Mr Foote to address in rebuttal evidence and/or at the hearing.

Ms Cookson on behalf of the Kewa, Katipa and Cookson whānau (81 Kanakanaia Road, Te Karaka 16A)

- 1.30 Ms Cookson raises three matters that have been addressed by Mr Foote's letter response (24 September 2026) to Ms Cookson and the legal memorandum (16 September 2026). In summary it is considered that the Project is unlikely to impact Ms Cookson's property as outlined in her evidence.

Ms T Wilson (103 Kanakanaia Road)

- 1.31 Ms Wilson's questions about retaining the existing alignment, gravel extraction and the Kanakanaia Road bridge are addressed at my evidence EiC Theme 1, EiC 16.70 and Mr Hooker's evidence.
- 1.32 As detailed in the Application, I consider that the adverse flooding effects on Ms Wilson's property would be significant given that the hazard categorisation increase from an H1 to an H5 in the design event. Use of this guideline to ascertain the potential RMA flood effects has been adopted on recent similar resource consent stopbanks projects. Mr Hooker's rebuttal evidence describes potential flood mitigation options available for these increased flood effects.
- 1.33 In my EiC I outlined why the s42A officer's report resource consent conditions 69 and 70 could be removed or amended to manage consequential flood effects that require mitigation or an appropriate response.
- 1.34 At the hearing, the Applicant's legal counsel intends to outline the Public Works Act approach and status regarding this property and interface with the RMA effects. However, a revamped version of Condition 69 could be developed to address the consequential flood effects on the 103 Kanakanaia Road property in order to provide some certainty to Ms Wilson. Such a condition I discussed with Ms Michalakakis as an option was as follows:

"The consent holder shall address all consequential flooding effects on these properties through avoidance, mitigation, compensation or any other suitable mechanism".

- 1.35 A revised and more focussed resource consent condition that is now proffered could look like:

The consent holder shall mitigate significant consequential flooding effects on 103 Kanakanaia Road habitable buildings to an acceptable hazard category through mitigation measures (such as floor raising), unless (a) agreed with the landowner, or (b) the consent holder has provided statutory compensation for consequential flooding effects on the habitable building at 103 Kanakanaia Road.

Mr Strong (on behalf of the Coates Family)

- 1.36 Mr Hooker and Mr Foote responds to Mr Strong's evidence. I note that Mr Strong suggests that over / super design event (and so have some other submitters) should be considered. In my experience for resource consent projects of this nature, it is standard practice to 'ring fence' the consideration of effects based on an Average Recurrence Interval (ARI) of about 1:100 or a relevant ARI that would sit under an emergency event scenario (refer to the emergency provisions in the RMA).

2 Updated proposed conditions of consent

- 2.1 Updates to the proposed resource consent conditions have been outlined above and will evolve through the hearing. I will seek to collaborate with Ms Michalakakis and submitters to refine consent conditions accordingly where required and directed by the Panel.
- 2.2 To align with my EiC, a minor addition (see underline) is to proposed consent condition 2:

Condition 2:

Changes that occur between preliminary and detailed (final) design shall be recorded and reported on as part of a final design report. The final design report shall record the changes, outline the reasons for them and provide a view as to whether the changes are in accordance with the documents referred to in Condition 1.

In this context, in accordance means changes that do not introduce a new activity, do not introduce a substantial change in alignment, do not result in a change to outcomes sought under the conditions of this consent, and does not cause any material additional increase in consequential flooding effects to other properties, by confirmation that there will be no additional increase in flood hazard risk classification to any habitable building, in the "design event".

3 Section 42A Report Addendum

- 3.1 Due to the timing of receiving the Section 42A Report Addendum, I have not had a chance to consider this in any detail and will address this at the hearing.
- 3.2 One point I would make though is that the Waipaoa River B Block water that has been allocated is of little use as river is likely to be in ban based on a quick perusal of the summer 2025 flow records available online.

4 Conclusion

- 4.1 Nothing in the submitter evidence changes my overall conclusions (EiC section 22).
- 4.2 It is noted that the Section 42A Report Addendum (24 September 2026) conclusions have not changed however the addendum does not take account of any submitter evidence.

- 4.3 Significant adverse flooding effects will be avoided or mitigated at the Ms T Wilson property (103 Kanakanaia Road) through the proffered the above new resource consent condition. Assessed against the relevant TRMP objectives and policies (and specifically Policy C6.3.12(2)), the Project is not contrary to them, on either the flap-gate-only or the bundled scenario. The section 104D RMA gateway test is therefore met.
- 4.4 Subject to the aforementioned recommended consent conditions, I remain of the opinion that consent should be granted.

Signed

A handwritten signature in black ink, appearing to read 'SP Exeter'.

Sven Paul Exeter

24 September 2026