

# Proposed Residential Care Facility, 19a Baird Road, Opotiki

Resource Consent Application and Assessment of Environmental Effects



## DOCUMENT

<b>CLIENT</b>	Te Pou Oranga o Whakatōhea
<b>PROJECT</b>	Proposed Residential Care Facility, 19a Baird Road, Opotiki
<b>PROJECT NO.</b>	24-012

## REVISION RECORD

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Appendix 4	BOPRC Flood Level Report
Appendix 5	Emergency Response Plan
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## 2. INTRODUCTION

This application has been prepared on behalf of Te Pou Oranga o Whakatōhea and seeks resource consent to operate a rehabilitation/wellness centre on a site located at 19a Baird Road, Opotiki. The proposal involves utilising the buildings on the property to provide accommodation and support services to up to 8 people along with ancillary staff facilities. The activity is classified as a residential care facility under the District Plan and the property is within the Rural Zone as identified on the Opotiki District Planning Maps (Planning Maps).

An assessment of environmental effects has been undertaken and has determined that the effects of the proposal will be no more than minor and that no persons will be adversely affected to a degree that is minor (or more than minor). On this basis it has been determined that the application does not require limited or public notification.

This report has been prepared to address the applicable information as required by Schedule 4 of the Resource Management Act 1991 (the 'Act') in appropriate detail relative to the scale and complexity of the proposal. Based on the information provided in this application, it is considered that it is appropriate for resource consent to be granted.

### 3. THE SITE AND SURROUNDING AREA

The site is located at 19a Baird Road, which is on the western side of State Highway 2 and the Waioeka River on the outskirts of the Opotiki township. The property is a rear site accessed from a shared right of way and vehicle entrance on the southern side of Baird Road. The property is legally described as follows:

TABLE 1: PROPERTY DETAILS		
LEGAL DESCRIPTION	RECORD OF TITLE	AREA
Lot 2 DP 8225	GS5C/1375	33,484m <sup>2</sup>



FIGURE 1: APPLICATION SITE

The site is located within a small group of rural residential properties situated on the main western approach to Opotiki.



FIGURE 2: AERIAL VIEW OF SUBJECT PROPERTY (SOURCE: BAYLEYS REAL ESTATE)



Access to Baird Road is provided via a right of way, which is shared with the adjoining property to the west. The accessway is formed to a sealed standard although the vehicle crossing itself is unsealed.



**FIGURE 3: ENTRANCE TO APPLICATION SITE VIEWED FROM BAIRD ROAD - SITE ACCESS ON RIGHT (SOURCE: GOOGLE EARTH - PRIOR TO SEALING)**

The property currently contains a 415m<sup>2</sup> three storey residential building and several smaller accessory buildings. The building is a six-bedroom dwelling, although has recently been used as seasonal worker accommodation and has a previous (unconsented) use as visitor accommodation (Kukumoa Lodge). The property has an existing vehicle entrance and driveway from the shared accessway which circles around the building with a large, vehicle parking and manoeuvring area to the east of the existing buildings. The remainder of the site is grassed with various scattered trees and divided into several paddocks.



**FIGURE 4: VIEW OF EXISTING DWELLING AND GROUNDS (SOURCE: BAYLEYS REAL ESTATE)**

The property is surrounded by established rural residential properties. The closest neighbouring dwelling is located to the south (1700 SH 2) and is 85m from the dwelling on the subject property. There are seven other dwellings between 150m and 200m from the site.





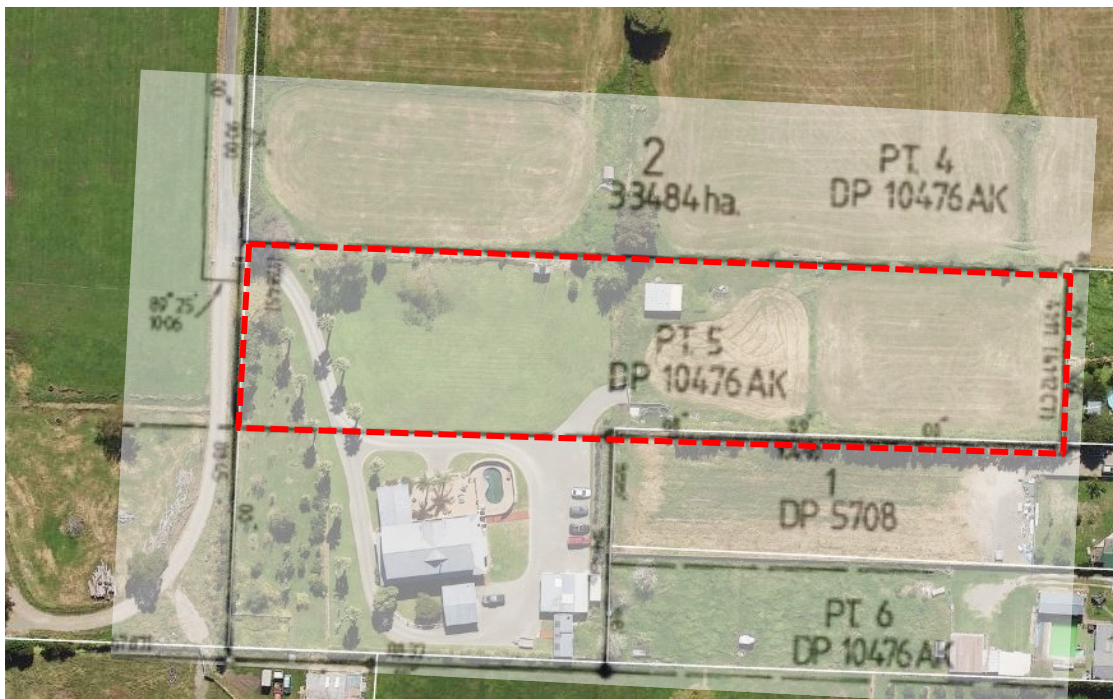


FIGURE 7: AREA SUBJECT TO LAND COVENANT

The topography of the site is flat, with ground levels ranging from 1.6m RL to 2.9m RL (Moturiki Datum). The elevation of the land around the existing dwelling is 1.8m RL. The floor level of the main dwelling on the property is approximately 2.6m RL (0.8m above ground level).

The site is within the Waioeka River catchment and the Waioeka-Otara river scheme. The site is at risk of flooding from the river overtopping the stopbanks and SH2 to the east. A flood level report has been provided by BOPRC which has advised that the 2% AEP flood level in this location is 4.3m RL, including an allowance for climate change and freeboard. A copy of this advice is included as **Appendix 4**.

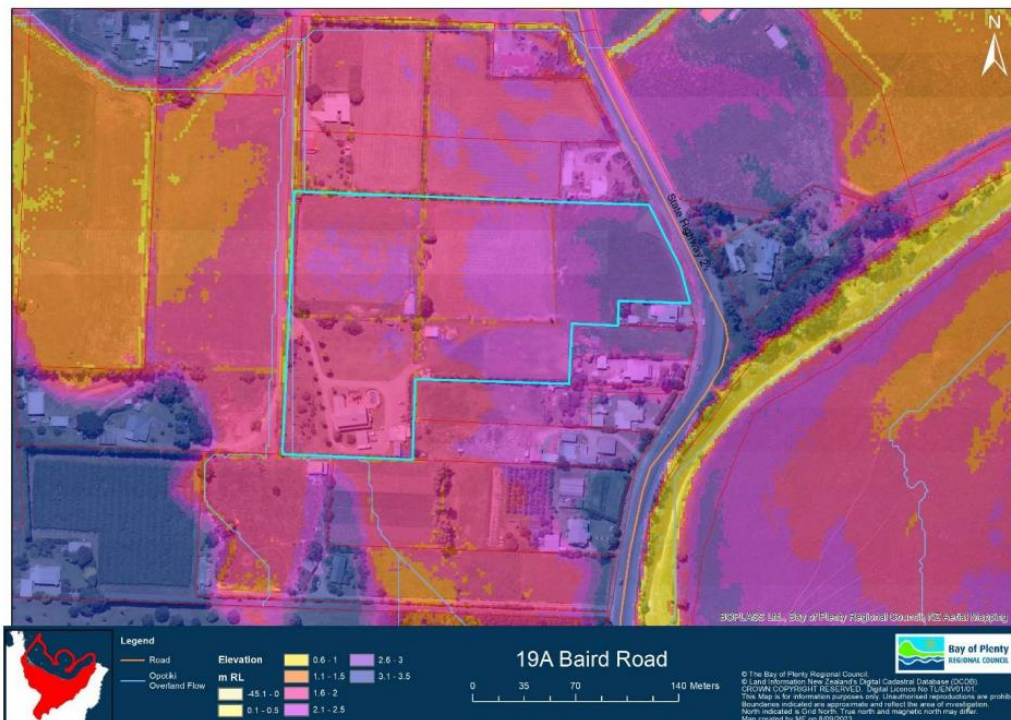


FIGURE 8: SITE ELEVATION MAP (SOURCE: BOPRC)

## 4. THE PROPOSAL

### 4.1 THE PROPOSAL

The proposed activity involves converting the use of the site from residential / RSE accommodation to a Hauora and Recovery Centre (residential care facility) with capacity for up to 8 residents along with ancillary staff facilities. The facility will typically be operated with 3-4 support staff and 2 security staff onsite 24/7. This will result in the site having a typical maximum occupancy of 14 people, excluding visitors. The ancillary support activity will generally operate during normal business hours.

The facility will provide a wellness centre to support the rehabilitation of individuals before and after undertaking programmes (delivered off-site) to recover from drug dependency. Residents will stay at the facility for several weeks at a time and receive support services (assessment, counselling, and education) delivered by facility staff. The residents are not physically or mentally impaired and attend the facility voluntarily. As such, they are not confined to the property whilst residing at the facility. Residents at the facility have either arrived directly from a residential living situation in the local community or have completed a treatment programme and are returning to their homes in the community.

The proposal will utilise the existing buildings on the property, The plans submitted with the application indicate a new wharenui building located in the courtyard area immediately in front of the building, however this is for illustrative purposes only and does not form part of the current application. Internal alterations will be undertaken to the buildings. Plans of the existing and proposed site layout and floor plans are included in **Appendix 3**, noting that there may be some minor changes to the internal configuration of the ancillary office layout.



**FIGURE 9: SITE LAYOUT**

The ground floor of the building will provide three office spaces and a meeting room, lounge/dining and kitchen facilities as well as two guest bedrooms available for use by whanau. The first floor of the building will provide five bedrooms for guests (8 occupants in total), a lounge and bathroom facilities. Security staff facilities are provided at second floor level.

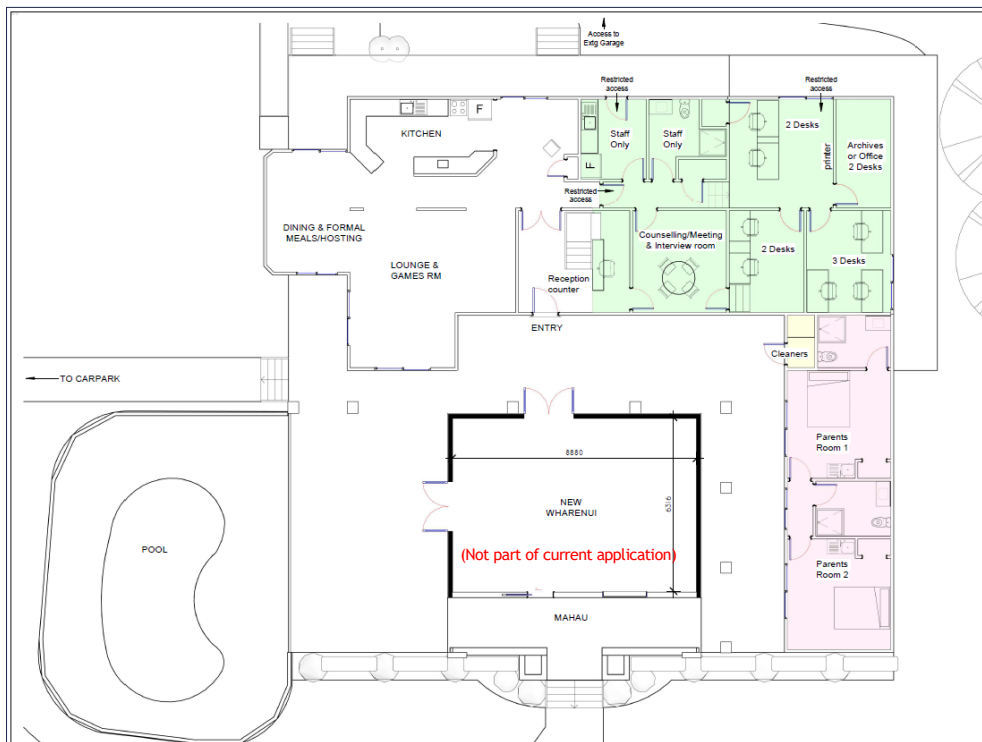


FIGURE 10: PROPOSED GROUND FLOOR PLAN

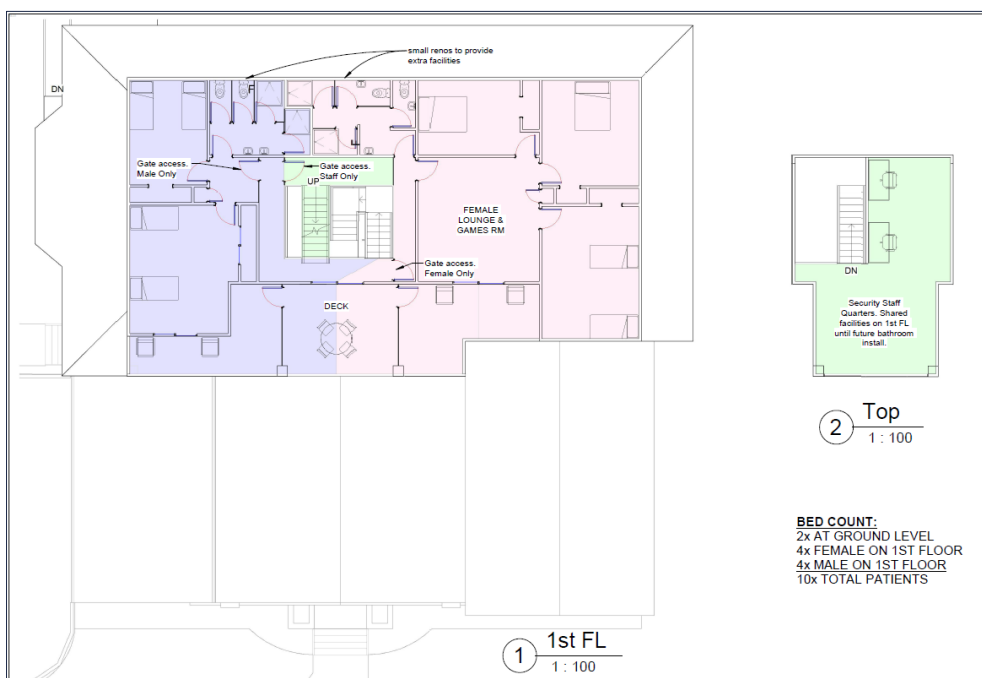


FIGURE 11: PROPOSED FIRST FLOOR PLAN

The property has an existing on-site wastewater system. It has been identified that this system will need to be upgraded to service the development. There are two potential options for wastewater disposal from the facility.

1. The existing on-site wastewater system will be upgraded to service the development. A Schedule 5 assessment has been prepared detailing the upgraded system.
2. A connection will be provided to Council's reticulated wastewater network which is located within the State Highway road reserve to the north east of the site.

## 4.2 BACKGROUND

Te Pou Oranga o Whakatōhea Social & Health Services provides a range of social and health services including peer support, assessment, referral, counselling, education, whānau support and advocacy to support clients with mental health and/or addiction issues.

## 4.3 REASONS FOR THE APPLICATION

Section 8.3.4.1 of the District Plan lists discretionary activities within the Rural Zone and includes residential care facilities (Activity 19). A residential care facility is defined as: *“an activity providing residential accommodation for eight or more people who need physical, medical, or psychiatric support and who are unable to live independently.”*

In this case, the residents of the facility are able to live independently but have chosen to attend a rehabilitation program which involves residing at the facility to enable access to support services as required. In this context, the proposed activity does not exactly fit within the definition of a residential care facility as defined in the District Plan. For the purposes of this application, however, a residential care facility is the closest match in terms of the activity types listed in the District Plan.

The offices included within the facility have been assessed as an ancillary activity falling within this definition. Activities and building accessory to a discretionary activity are also listed as discretionary activities (Rule 8.3.4.1, Activity 5).

The discretionary activity status is subject to compliance with the Zone Standards in section 8.6 of the District Plan. The proposed development can meet all relevant zone standards. It is noted that the existing building is below the 2% AEP floor level requirement specified in Zone Standard 8.6.10.1, however, this is an existing situation and the proposed development does not involve the construction of new buildings. An assessment of all relevant Zone Standards is provided in section 6.3.2 of this report.

## 4.4 STATUS OF THE APPLICATION

Overall, the proposal requires assessment as a **discretionary activity**.

# 5. SCHEDULE 4 INFORMATION REQUIREMENTS

## 5.1 ASSESSMENT AGAINST PART 2 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.

The proposal will enable the effective use of the site and provides a much-needed rehabilitation facility for the Opotiki community in a suitable location. The site contains an existing RSE accommodation facility which is well suited to the proposed use. The proposal will not introduce an incompatible form of development in this location given the layout of the site, limited additional built development required and the nature of the proposed use.

The proposal will not negatively affect any natural or physical resource. The proposal provides a support service which will help the Opotiki community provide for their social and cultural wellbeing.

The site is not within the Coastal Environment and does not contain any outstanding natural features or landscapes, areas of significant indigenous vegetation or habitats or historic heritage values. The only Section 6 matter relevant to this application is the risk from natural hazard risks, which are discussed in section 6.2 below.



The proposal will not give rise to any 'other matters' (Section 7) and is consistent with the principles of the Treaty of Waitangi (Section 8).

Overall it is considered that the adverse effects will be minor and the proposal will be consistent with the purpose and principles of the Act.

## 5.2 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Section 104(1)(a) and Clause 2(3) of Schedule 4 requires an assessment of the activity's effects on the environment. The detail of this should correspond with the scale and significance of the effects that the activity may have on the environment. The following assessment includes, where relevant, the information required by Clause 6 and the matters outlined in Clause 7.

The existing environment and permitted baseline are relevant considerations for this assessment. In this case, the existing environment comprises the surrounding environment (as described in section 3 of this report) and the existing use of the site for RSE accommodation. The proposed activity will operate from the existing building on the property, which was lawfully established and therefore forms part of the existing environment.

Activities permitted within the Rural Zone include RSE accommodation for up to 12 people, two dwellings (on sites 1-4ha in size), and marae. In this case, the vulnerability of the site limits the ability for permitted land uses to be established on the land and provide a credible permitted baseline. The existing dwelling on the property and provides a baseline for assessing traffic effects. There is an area of higher land at the eastern end of the property adjacent to the State Highway boundary where an additional dwelling could be built and achieve the minimum building platform level requirement, however this would be subject to the removal of the existing covenant on the property. The existing building on the property is a large residential dwelling and could be separated into two independent dwelling units. On this basis, a non-fanciful permitted baseline for assessing traffic effects and rural amenity effects would be two dwellings on the property sited to meet the relevant Zone Standards for the Rural Zone. This is discussed in further detail in the following sub-sections.

As the activity status is discretionary, the consideration of actual and potential effects is not limited. All relevant actual and potential environmental effects are assessed below.

### 5.2.1 VISUAL EFFECTS

The proposal involves the use of the existing building on the property to provide a residential care facility. Building works involve cosmetic upgrades and internal alterations which will not be noticeable from outside the site. The site is a large property with substantial separation from neighbouring sites, roads and other public areas.

The extent of the alterations proposed to the building and the separation from neighbouring dwellings ensures that the effects on the visual amenity values of the neighbouring properties and wider surrounding area will be less than minor. A single sign is proposed at the entrance to the site and will meet the 1.1m<sup>2</sup> area requirement as a controlled activity. It is noted that the sign has been erected and it currently located partially within the road reserve. A licence to occupy will be required to authorise this (through a separate process), or the sign relocated entirely within the property.

### 5.2.2 RURAL CHARACTER AND AMENITY VALUES

Amenity values are those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes (Section 2 RMA). It has generally been accepted that amenity values are more than just the visual perception of an area. Amenity values also include a variety of factors that contribute to the appreciation of character, pleasantness, and aesthetics, including noise, lighting, smells and awareness of activity and movement.

The amenity values currently present within the site and its surroundings are typical of peri-residential areas, comprising a mix of rural production land, rural residential properties and smaller residential sites. The application site is characterised by substantial open space around the building, with landscaped gardens and

amenity plantings and areas of pasture. The site is well separated from neighbouring dwellings with hedging or shelter belt planting providing some screening along the external boundaries.

As the proposed activity will operate from an existing building with no significant external changes, any effects on the visual components of amenity values in surrounding area will be less than minor. Viewed from outside the property, the property will retain its current appearance as a large, rural residential property or accommodation facility for seasonal workers (the previous land use activity).

It is acknowledged that the establishment of a non-residential use (such as the proposed care facility) within a rural area has the potential to result in a change in the character of the neighbourhood. In this case, the site has a well-established use as an accommodation facility and has previously been used for RSE accommodation as a permitted activity. The building will remain entirely in keeping with the bulk, scale and appearance of buildings that are permitted to establish within the Rural Zone. It is not proposed to remove vegetation or undertake any modifications to the land.

The proposed land use is expected to generate noise levels which are typical of residential activities and within the noise standards specified for the Rural Zone. On this basis, noise effects can be disregarded.

Any external lighting will be limited to lights attached to the building and will not generate any glare or light spill effects beyond the property boundary.

The site will operate with 24/7 on-site security staff residing within the facility. The purpose of the on-site security is to manage access to the facility outside of normal staffing hours and to provide general site security. As noted previously, residents will be permitted to leave the facility during the day and to receive visitors.

It is acknowledged that residents within the neighbourhood may have security and safety concerns based on the perceived nature of the proposed activity. As explained previously, the facility provides support services for community residents who have volunteered to undertake a programme to address drug dependency issues. The facility is not a detention centre and is not designed for people who are unable to live independently, require full-time care or are a risk to others.

In summary, taking into account the nature of the proposed activity, the limited physical changes proposed to the existing buildings, and the separation from neighbouring dwellings, it is considered that the amenity effects will be, at most, minor.

### 5.2.3 REVERSE SENSITIVITY

The proposed change in use will not increase the sensitivity of the site to the effects of rural production activities. The site has an established use for residential and RSE accommodation activities and is surrounded by similar sites which have been developed for rural residential land uses.

It is acknowledged that some of the neighbouring properties are used for both rural production and residential land uses and changes in land use (including within existing buildings) has the potential to result in reverse sensitivity effects. In this case, the proposed activity will have no greater sensitivity to these effects than residential use of the site.

### 5.2.4 ACCESS AND TRAFFIC EFFECTS

The proposed activity will utilise the existing vehicle entrance, shared accessway and on-site parking and manoeuvring areas. It is proposed to maintain the existing sealed standard for the driveway and parking area. The current entrance from the shared accessway to Baird Road is sealed and located on a clear section of road with visibility along the full length of the road in both directions. Baird Road is a short, no-exit local road which is sealed and serves approximately 10 properties. Baird Road joins SH 2 at a T intersection located 170m east of the existing vehicle entrance.

The shared accessway is within the neighbouring property to the west (19B Baird Road) and this property and the subject site are the only two users of this accessway. The right of way easement has a width of 10m and the driveway has a formed carriageway of between 2.5m and 3m in width. A copy of the Record of Title for this property and accompanying plan illustrating the easement is included in **Appendix 2**. It is noted that this width is less than the ODC Code of Practice requires for an accessway used by two lots, which should have

a carriageway width of 4m. Sufficient land is available to widen the carriageway if it were deemed necessary, although this is not proposed at this stage. The accessway is straight with good sight visibility and sufficient space for vehicles to pass utilising the grass verge. Retaining the current formation standard is in keeping with the rural character of the locality.

The main traffic generating activities at the site will be the facility staff, which are expected to result in an average 10-12 trips daily. In addition there will be resident arrivals and departures as well as visits from whanau and any specialist service providers. Daily traffic volumes associated with these activities will vary. It is expected that the total number of average daily traffic trips generated by the facility will be between 20 and 30. Based on the trip generation figures in NZTA's Research Report 453, a single residential dwelling typically generates 10 vehicle trips per day. Two dwellings are permitted on the site which provides a permitted baseline of 20 vehicle trips per day.

The proposed facility will generate an increase in traffic volumes relative to the current permitted use, however the degree of increase is not substantially greater than the permitted baseline discussed above. There are no apparent traffic safety issues with the design of the existing accessway or entrance to Baird Road. It is acknowledged that the current formation width of the accessway is below the standard required for two lots, however this is an existing situation and able to be addressed through minor widening of the carriageway if required. The on-site parking and manoeuvring areas are more than adequate for the needs of the proposed facility and have been designed and constructed to a suitable standard.

Overall, it is considered that the traffic effects of the proposal will be less than minor.

#### 5.2.5 SERVICING

Council's reticulated water supply is available in Baird Road with a metered water connection provided at the vehicle entrance. No changes are proposed to the existing water supply arrangements.

As noted previously, the site is serviced with an existing on-site wastewater system. Any necessary upgrades to this system will be addressed as part of the building consent process for the change in use of the building. The site has a large land area available to accommodate any necessary upgrades to the existing system. There is also the potential to connect to Council's reticulated wastewater network within the State Highway road reserve.

Stormwater from existing buildings is discharged to ground soakage. No changes are proposed.

#### 5.2.6 HISTORICAL, CULTURAL AND ARCHAEOLOGICAL VALUES AND RESOURCES

The site does not contain any features of significant historical, cultural or archaeological value. The nearest site of significant value is the Waioeka River, which is located 200m to the east of the site and will be unaffected. The proposal involves a change in use of an existing accommodation facility, and it is not anticipated that there will be any adverse effects on heritage or conservation values.

#### 5.2.7 EFFECTS ON WATERBODIES, INDIGENOUS VEGETATION AND HABITATS

The property does not contain any areas of indigenous vegetation, habitats of indigenous fauna, waterbodies or riparian areas. The proximity to the Waioeka River has been discussed previously.

#### 5.2.8 NATURAL HAZARDS

A key consideration in assessing the effects of the proposed activity is the vulnerability of the site to inundation from floodwaters overtopping the Waioeka River stopbanks. As discussed previously, a flood level report has been provided by BOPRC and is included in **Appendix 4**. This report has advised that the 2% AEP flood level in this location is 4.3m RL (Moturiki Datum). The floor level of the main dwelling is around 2.6m RL with the northern wing of the building at a slightly lower level.

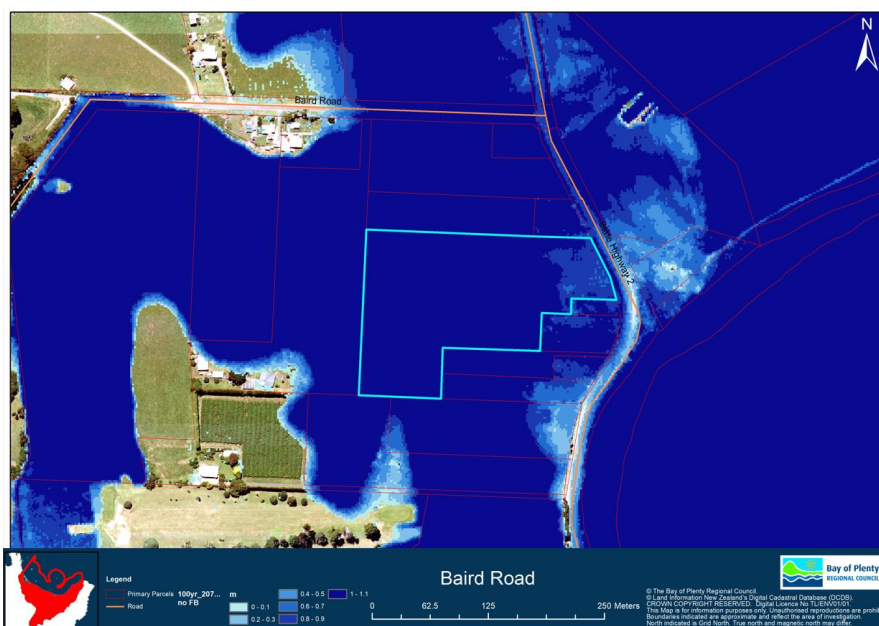
The proposal involves a change in the use of the existing dwelling / accommodation building on the property. No additional habitable buildings will be constructed. As explained previously, the use of the building will be both by staff and overnight stays by residents on a short-term basis.

The Bay of Plenty Regional Policy Statement (RPS) requires a risk management approach to be taken in controlling the use, development and protection of land to avoid or mitigate natural hazards. This approach involves assessing the level of risk according to the likelihood of natural hazards occurring and their potential consequences<sup>1</sup>. The framework is focused on the presence and level of risk rather than the presence and likelihood of the hazard and is designed to accommodate a range of risk mitigation measures, including regulatory and non-regulatory measures.

Policy NH 2 and Appendix L of the RPS sets out a risk management framework for assessing natural hazard risk. The criteria is primarily intended to be implemented through District Plan provisions, however the framework is yet to be incorporated into the Opotiki District Plan. Policy NH 9B addresses this scenario and sets out circumstances where the Appendix L natural hazard assessment should be undertaken. These circumstances include large scale developments (urban site of 5ha or more) or where a consent authority considers an assessment necessary taking into account the nature and scale of the activity, the location relative to known hazards and the cumulative effects on risk.

In this case, it is considered that the nature and small scale of the proposed activity (change in use of an existing building) would not justify a full Appendix L assessment. In addition, the assessment criteria is not well suited to addressing effects on a single property or building. The general approach set out in the framework does, however, provide helpful guidance in considering natural hazard risk in the context of this individual site and the proposed activity.

Determining natural hazard risk is a function of likelihood and consequence. Appendix L suggests a primary assessment of flood risk be undertaken based on the 1% AEP likelihood and a secondary assessment (to determine maximum risk) based on the 2% AEP event. The following flood map provided by BOPRC represents the 1% AEP flood level including climate change to 2070.



**FIGURE 11: BOPRC FLOOD MAP: 1% AEP (CLIMATE CHANGE TO 2070)**

Flood depths shown in *Figure 11* above are not specified but are in excess of 1.1m. As discussed previously, the 2% AEP flood level in this location is 4.3m RL. Based on this information, both the 1% and 2% flood events are expected to result in the building being inundated.

Flood maps have also been provided for smaller (more frequent) flood events, including the 5% AEP event (see *Figure 12*). The facility is unlikely to be inundated during these smaller events.

<sup>1</sup> RPS Policy NH 1B



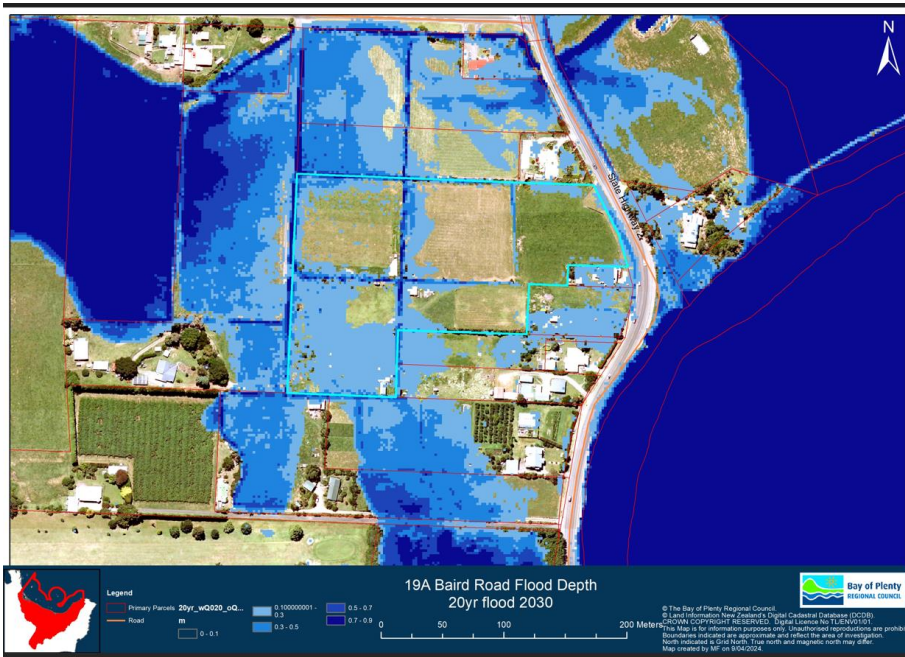


FIGURE 12: BOPRC FLOOD MAP: 5% AEP (NO CLIMATE CHANGE)

With respect to the consequence of inundation, Appendix L requires consequences to be considered based on the percentage of buildings which have functionality compromised, the percentage of the population affected by the disruption of lifeline utilities and the number of human deaths and injuries. In this case, a 1% or 2% AEP flood event is likely to inundate the existing building and compromise its functionality. The consequence table in Appendix L (Table 21) indicates that an event resulting in >50% of buildings within the hazard assessment area having functionality compromised is a Catastrophic consequence level. As noted previously, the assessment framework is designed to apply to assessing larger development areas than a single property. In terms of health and safety consequence, an event resulting in 2-10 fatalities and/or 11-100 injured is classified as a Moderate consequence.

The likelihood and consequence levels are applied to a risk screening matrix to determine the overall risk level. The consideration of natural hazards in this application has not applied the Appendix L assessment methodology, however, based on an initial, high-level overview of the risk using this framework, the natural hazard risk to the existing buildings on the property would be considered high as the building would be functionally compromised in the event of inundation from a 2% or larger flood event. The health and safety risk would require further assessment to assign an appropriate level given the consequence level is based on a large population within the assessment area, rather than an individual site assessment.

Risk Screening Matrix					
Likelihood <sup>12</sup> (AEP %)	Consequences				
	Insignificant	Minor	Moderate	Major	Catastrophic
≥2	Low risk	Medium risk	Medium risk	High risk	High risk
<2-1	Low risk	Low risk	Medium risk	High risk	High risk
<1-0.1	Low risk	Low risk	Low risk	High risk	High risk
<0.1-0.04	Low risk	Low risk	Low risk	Low risk	Medium risk
<0.04	Low risk	Low risk	Low risk	Low risk	Low risk

**Key**

- High risk
- Medium risk
- Low risk

FIGURE 13: APPENDIX L RISK SCREENING MATRIX

Consequence level	Built			Lifelines utilities	Health & safety
	Social/cultural	Buildings	Critical buildings		
Catastrophic	≥25% of buildings of social/cultural significance within hazard assessment area have functionality compromised.	≥50% of buildings within hazard assessment area have functionality compromised.	≥25% of critical buildings within hazard assessment area have functionality compromised.	A lifeline utility service is out for > 1 month (affecting ≥ 20% of the town/city population) OR out for > 6 months (affecting < 20% of the town/city population).	>101 dead and/or >1001 injured
Major	11–24% of buildings of social/cultural significance within hazard assessment area have functionality compromised.	21–49% of buildings within hazard assessment area have functionality compromised.	11–24% of critical buildings within hazard assessment area have functionality compromised.	A lifeline utility service is out for 1 week – 1 month (affecting ≥ 20% of the town/city population) OR out for 6 weeks to 6 months (affecting < 20% of the town/city population).	11–100 dead and/or 101–1000 injured
Moderate	6–10% of buildings of social/cultural significance within hazard assessment area have functionality compromised.	11–20% of buildings within hazard assessment area have functionality compromised.	6–10% of critical buildings within hazard assessment area have functionality compromised.	A lifeline utility service is out for 1 day to 1 week (affecting ≥ 20% of the town/city population) OR out for 1 week to 6 weeks (affecting < 20% of the town/city population).	2–10 dead and/or 11–100 injured
Minor	1–5% of buildings of social/cultural significance within hazard assessment area have functionality compromised.	2–10% of buildings within hazard assessment area have functionality compromised.	1–5% of critical buildings within hazard assessment area have functionality compromised.	A lifeline utility service is out for 2 hours to 1 day (affecting ≥ 20% of the town/city population) OR out for 1 day to 1 week (affecting < 20% of the town/city population).	≤1 dead and/or 1–10 injured
Insignificant	No buildings of social/cultural significance within hazard assessment area have functionality compromised.	<1% of buildings within hazard assessment area have functionality compromised.	No damage within hazard assessment area, fully functional.	A lifeline utility service is out for up to 2 hours (affecting ≥ 20% of the town/city population) OR out for up to 1 day (affecting < 20% of the town/city population).	No dead No injured

FIGURE 14: APPENDIX L: TABLE 21 - CONSEQUENCE LEVELS

Policy NH 4B of the RPS addresses natural hazard risks at the individual site level and applies to greenfield development, or the redevelopment of sites where new buildings or additions to existing buildings are proposed. None of these circumstances apply in this case as the activity will operate from existing buildings on a developed site. Nevertheless, it is noted that Policy NH 4B requires that a low level of natural hazard risk be achieved. In sites where the likelihood of the hazard is high, measures to reduce the consequence are needed to achieve an overall low level of risk.

Appendix M of the RPS lists various options available to reduce natural hazard risk. They include:

*Ensuring new development anticipates possible hazard event emergencies and provides means to enable effective responses by people and communities including requiring:*

- (i) *Hazard warning systems; and/or*
- (ii) *Urban form and transport infrastructure (including for motor vehicles, cycles and pedestrians) that enables rapid and efficient evacuation; and/or*
- (iii) *Provision for, and safeguarding of, safe and accessible evacuation routes and zones (including, where appropriate, vertical evacuation zones).*

In this case, the proposed activity will operate from an existing building which has a long history of residential use and as an accommodation facility. The proposal involves a change in use of the building and will not increase the likelihood of the building being affected by inundation. It is recognised that a building providing a social /community service activity being functionally compromised due to inundation requires consideration of continuity of service. The applicant has considered this risk and is able to provide support services from alternative locations and would be able to continue operating in the event this facility is damaged by flooding.

The proposal will have a higher occupancy level than a typical residential dwelling, although similar to the previous use of the building as a seasonal worker accommodation facility. As explained previously, the residents and staff using the facility will be able bodied and able to evacuate from the site prior to a flood event. An Emergency Response Plan (ERP) has been prepared including site evacuation procedures and is included as **Appendix 5**. These procedures include the identification of evacuation routes and facilities able to temporarily accommodate staff and residents in the event of a flood. All staff and residents will be familiarised with the requirements of the ERP as part of the site induction process. The ERP provided with this application is considered a draft document which will be updated as required to address the requirements of any resource consent conditions with a final version provided to Council for certification that it meets the requirements of this resource consent prior to the activity commencing.

Based on advice received from BOPRC engineering staff, it is understood that the source of inundation is the overtopping of the Waioeka River stopbanks and State Highway 2. A flood hazard of this nature has the benefit of being able to be anticipated through the monitoring of weather forecasts and warnings, rainfall levels in the upper catchment, and publicly accessible real-time monitoring of river levels. These factors provide the ability

to have advance warning of a potential flood event occurring with the ability to implement flood preparedness and response plans. In the case of the Waioeka River, river gauges within the Waioeka Gorge provide several hours notice of flood events exceeding stopbank design levels. This provides an opportunity for evacuations to occur prior to a flood event occurring, thereby avoiding the risk of inundated roads preventing the use of evacuation routes.

Given that the number of occupants remains similar to the previous land use activity on the site and that these occupants are able to evacuate without requiring significant additional resources, it is considered that the proposed activity does not represent a significantly greater risk to health and safety relative to the previous (permitted) land use activities on the site. The development of a site-specific Emergency Response Plan provides an effective measure to reduce residual risk to the health and safety of staff and residents of the facility.

Taking into account the matters discussed above, it is considered that the natural hazard effects of the proposal can be mitigated to a level where the effects are no more than minor.

### **5.3 SECTION 104 PROVISIONS: RELEVANT PLANNING PROVISIONS**

The matters Council must have regard to when considering an application for resource consent are listed in section 104 of the Act.

This section provides an assessment of the matters that are required to be assessed within section 104 of the Act and, by doing so, also meets the requirements of Clauses 2(1)(g) and 2(2) in Schedule 4.

#### **5.3.1 RELEVANT STANDARDS, STATEMENTS AND PLANS**

The relevant policy and planning documents are considered below.

##### **NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH**

The National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health ('NESCS') came into force on 1 January 2012. This standard applies to various activities including changes in land use and soil disturbance on land that has or has had an activity or industry described in the Hazardous Activities and Industries List ('HAIL') undertaken on it.

The primary aim of the NESCS is to ensure that land affected by contaminated soil is appropriately identified and assessed when soil disturbance and/or land development activities take place and, if necessary, remediated, or the contaminants contained to make the land safe for human use.

The use of the site will not change in relation to the land use classifications in the NESCS, therefore the proposal is not considered to represent a change in use in the context of the NESCS. Soil disturbance will be limited to minor excavations to construct the foundations of the wharenui and well within the permitted activity soil disturbance limits.

On this basis, it has been determined that the NESCS is not applicable.

##### **NATIONAL POLICY STATEMENT FOR HIGHLY PRODUCTIVE LAND 2022**

The National Policy Statement for Highly Productive Land (NPS-HPL) came into effect on 17 October 2021 and will therefore be a relevant document in considering the application. The purpose of the NPS-HPL is to protect highly productive land from inappropriate subdivision, use and development to ensure its availability for food and fibre production.

The NPS-HPL directs regional councils to map highly productive land within the region and provides criteria for determining what is considered highly productive land. Until such time as a regional policy statement containing maps of highly productive land is operative, consent authorities must treat land that is zoned general rural or rural production and LUC 1, 2 or 3 land as highly productive land and apply the NPS-HPL accordingly.

In this case, the LUC soil classification for the property is Class 2 which is considered highly productive land under the NPS-HPL. Consideration of the provisions of the NPS-HPL is therefore required. The following table considers the relevant objectives and policies.

<b>TABLE 4: NPS-HPL OBJECTIVES AND POLICIES</b>	
<b>OBJECTIVE/POLICY</b>	<b>COMMENT</b>
<i>Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.</i>	The existing buildings on the property are utilised as an accommodation facility with the balance land in pasture. This rural production land use will continue unaffected by the proposed activity. The proposed activities utilise existing buildings and surrounding land which is unavailable for land-based productive use.
<b>Policy 4:</b> <i>The use of highly productive land for land-based primary production is prioritised and supported.</i>	
<b>Policy 8:</b> <i>Highly productive land is protected from inappropriate use and development.</i>	The proposed land use is considered to be an appropriate activity in this location.
<b>Policy 9:</b> <i>Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.</i>	Reverse sensitivity effects will be less than minor. This is due to the activity not being sensitive to rural production activities, the surrounding rural residential land uses and the separation distance from rural production activities.

Section 3.9 of the NPS-HPL directs territorial authorities to avoid the inappropriate use or development of highly productive land for land uses which are not land-based primary production. A list of specific circumstances are provided where a non-productive use may be considered appropriate. At least one of these circumstances must apply for the activity to be acceptable.

Clause (g) is also relevant and provides for “*small-scale or temporary land use activities that have no impact on the productive capacity of the land.*” As has been discussed in previous sections of this report, the proposed activity will utilise existing buildings and areas immediately around the buildings which are encircled by the driveway surrounding the building. This land is not available for rural production.

Retaining the overall productive capacity of the land over the long term requires that there is no loss in the potential of the subject land being used for land-based primary production. This includes consideration of effects of the proposed land use on the potential land-based primary production use of the subject land. In this case, the property on which the activity will occur is a well-established rural residential site which has been converted to provide an accommodation facility. The property has limited capacity for rural production land use and this will not be further reduced by the proposed activities.

Activities which meet the criteria in Section 3.9 are subject to the following additional clauses:

*“(3) Territorial authorities must take measures to ensure that any use or development on highly productive land:*

*(a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*

*(b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.”*

The impact of the proposed activity on the productive capacity of highly productive land has been discussed above and it has been determined that there will be no loss. Reverse sensitivity effects are unlikely to be a factor, given the nature of the surrounding land uses, which are predominantly rural residential.

Overall, it is considered that the proposal is not inconsistent with the NPS-HPL.



## BAY OF PLENTY REGIONAL POLICY STATEMENT

BAY OF PLENTY REGIONAL POLICY STATEMENT - RELEVANT NATURAL HAZARD OBJECTIVES AND POLICIES		
<p><b>Objective 31</b></p> <p><i>Avoidance or mitigation of natural hazards by managing risk for people's safety and the protection of property and lifeline utilities</i></p>	<p><b>Policy NH 1B: Taking a risk management approach</b></p> <p><i>Take a risk management approach to control the use, development and protection of land to avoid or mitigate natural hazards by assessing the level of risk according to the likelihood of natural hazards occurring and their potential consequences.</i></p>	<p>The natural hazard risks that apply to the site are primarily inundation. The advice received by BOPRC regarding inundation levels in this location has been taken into account in the assessment provided in earlier sections of this report.</p>
	<p><b>Policy NH 9B: Assessment of natural hazard risk at the time of subdivision, or change or intensification of land use before Policies NH 7A and NH 8A have been given effect to</b></p> <p><i>Before a district or, where applicable, regional plan gives effect to Policies NH 7A and NH 8A, assess natural hazard risk associated with a development proposal to subdivide land or change or intensify land use using the methodology set out in Appendix L where:</i></p> <p><i>(a) The subdivision of land or the change or intensification of land use is proposed to occur on an urban site of 5 ha or more; or</i></p> <p><i>(b) The relevant consent authority considers risk assessment appropriate having regard to:</i></p> <p><i>(i) the nature, scale and/or intensity of the activity,</i></p> <p><i>(ii) the location of the development site relative to known hazards,</i></p> <p><i>(iii) the cumulative effect on risk of developments on sites less than 5 ha,</i></p> <p><i>(iv) the nature and extent of any risk assessment that may be required under, or incorporated within, the operative district or regional plan, except that the obligation to assess the risk of the natural hazard under this policy shall not arise where the risk derives from a geothermal hazard which is managed under this Statement's section 2.4 and the Geothermal Resources Policies and Methods.</i></p>	<p>The Opotiki District Plan was made operative in 2021. The Natural Hazard provisions in the RPS were made operative in July 2016, prior to the notification of the Opotiki District Plan. The District Plan has not specifically given effect to Policies NH 7A and NH 8A, therefore Policy NH 9B is applicable.</p> <p>This resource consent application involves a small-scale activity (utilising an existing building on a single site). The requirements of Policy 9B have been discussed in Section 5.2 above.</p>
	<p><b>Policy NH 11B: Providing for climate change</b></p> <p><b>Incorporate the effects of climate change in natural hazard risk assessment.</b></p> <p><i>Authoritative up-to-date projections of changes in sea level, rainfall, temperature, and storm frequency and severity will be used as updated scientific data become available.</i></p> <p><i>Use the following projections as minimum values when undertaking coastal hazard assessments:</i></p> <p><i>(a) A 100-year time frame;</i></p> <p><i>(b) A projection of a base sea-level rise of at least 0.6 m (above the 1980–1999 average) for activities/developments which are relocatable;</i></p>	<p>The assessment of inundation risk undertaken by BOPRC has factored in the predicted impacts of climate change, specifically increased storm intensity and sea level rise.</p>

	<p>(c) A projection of a base sea-level rise of 0.9 m (above 1980–1999 average) for activities where future adaptation options are limited, such as regionally significant infrastructure and developments which cannot be relocated; and</p> <p>(d) An additional sea-level rise of 10 mm/annum for activities with life spans beyond 2112.</p>	
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## OPERATIVE DISTRICT PLAN

### OBJECTIVES AND POLICIES

The objectives and policies relevant to this application are set out below.

TABLE 3: Opotiki District Plan Objectives and Policies		
RURAL ZONE		
PROVISION		COMMENT
<i>Objective 8.2.1</i>	<i>A rural environment that contributes to the economic and social wellbeing of the District and region through a range of rural activities and other lawfully established activities, where the effects of subdivision, use and development are managed to maintain the rural character of the zone and to prevent reverse sensitivity effects from compromising rural production activities and the operation of infrastructure.</i>	The proposal will maintain the qualities of the rural environment in this location. The proposal has an established use as an accommodation facility, utilises existing buildings and will comply with the Zone Standards for the Rural Zone, including yard setbacks.
<b>Policy 8.2.1.1</b>	Recognise the Rural Zone as a working rural environment and ensure that residential or sensitive activities do not result in reverse sensitivity effects on rural production activities, through separation distances and other requirements.	The neighbouring properties include rural residential properties. None of these adjoining properties are utilised for rural production activities other than small-scale activities ancillary to (and compatible with) rural residential land use.
<b>Policy 8.2.1.2</b>	Manage subdivision and development to maintain the rural character of the zone and the District's natural and physical resources.	
<b>Policy 8.2.1.3</b>	Ensure the maintenance and enhancement of visual open space and vegetated character of the rural environment.	
<b>Policy 8.2.1.4</b>	Maintain the rural character and amenity values associated with the low-density rural environment.	
<b>Policy 8.2.1.5</b>	Ensure that sensitive activities, including new residential activities that may lead to reverse sensitivity effects on existing lawfully established activities, including infrastructure, are appropriately located and managed.	The site has an existing permitted use as a seasonal worker accommodation facility. The proposal will not generate any additional reverse sensitivity effects and is entirely compatible with the neighbouring land uses.
<i>Objective 8.2.2</i>	<i>Enable the use of the rural land resource and in particular versatile land for rural production activities.</i>	The site is not suitable for rural production use as an economic unit due to its size, location and existing land uses.

<b>Policy 8.2.2.1</b>	Subdivision, use and development should not result in a significant reduction of productive rural land use options, especially for versatile land, or increase reverse sensitivity effects on rural production activities.	The adjoining land is used for rural residential activities.
<b>Policy 8.2.2.2</b>	Versatile land should be used and developed in a manner so that it remains available to present and future generations for rural production activities and is not compromised by activities that do not rely on or directly support the productive potential of the land.	
<i>Objective 8.2.3</i>	<i>Avoid, remedy or mitigate adverse environmental effects of activities undertaken within the Rural Zone, while recognising and providing for rural production activities and their anticipated effects.</i>	The effects of the proposal on amenity values have been considered previously. It has been determined that no neighbouring dwellings will be adversely affected by the proposed change in use. This is due to the separation distance and predominantly internal alterations to the buildings.
<b>Policy 8.2.3.3</b>	Require landscaping of storage and service areas on sites used for industrial and commercial activities so that these do not detract from the character and amenity of the Rural Zone.	
<b>Policy 8.2.3.4</b>	Mitigation of the potential adverse effects of new activities on waterbodies and on the amenity of established dwellings through measures including landscaping, screening and separation distances from adjoining activities.	
<b>Policy 8.2.3.5</b>	Mitigation or avoidance of potential adverse effects, including reverse sensitivity, of new dwellings or incompatible activities on legally authorised activities.	
<i>Objective 8.2.4</i>	<i>Recognise the special relationship tangata whenua have with their ancestral land.</i>	
<b>Policy 8.2.4.1</b>	To recognise and provide for the cultural, spiritual and archaeological values of tangata whenua and the desire of tangata whenua to live on and develop their ancestral lands and to protect the natural environment of their ancestral lands.	The site does not contain any identified sites or features of cultural significance.
<b>Policy 8.2.4.2</b>	To recognise the special relationship of Māori with their ancestral land by enabling use and development of land, including papakāinga and associated support facilities.	
<i>Objective 8.2.6</i>	<i>Manage activities to ensure vehicle movement is undertaken in a safe and efficient manner that does not affect the functioning of the transport network.</i>	There is sufficient on-site parking and manoeuvring areas to enable the safe movement of vehicles on site and avoid adversely affecting the local transport network.

<b>Policy 8.2.6.1</b>	To avoid, remedy or mitigate the adverse effects of activities on the safety and efficiency of the transport network.	
<b>NATURAL HAZARDS</b>		
<p><b>Objective 18.2.1</b></p> <p><i>Ensuring that the effects of natural hazard occurrence within the District are avoided or mitigated when making resource management decisions.</i></p>	<p><b>Policy 18.2.1.1</b> <i>Control activities and the location of buildings to avoid or mitigate the effects of natural hazards.</i></p> <p><b>Policy 18.2.1.2</b> <i>Require detailed site investigations prior to subdivision, use or development of land subject to or likely to be subject to natural hazards.</i></p> <p><b>Policy 18.2.1.3</b> <i>Apply conditions on subdivision and resource consents to mitigate adverse effects of natural hazards from the use and development of land.</i></p> <p><b>Policy 18.2.1.4</b> <i>Ensure that the ponding areas of the Ōpōtiki Township are kept free from activities that affect the effectiveness of the ponding areas.</i></p> <p><b>Policy 18.2.1.5</b> <i>Require esplanade reserves or esplanade strips where appropriate as a mechanism to mitigate potential effects from natural hazards.</i></p> <p><b>Policy 18.2.1.6</b> <i>Avoid new development in areas at risk of coastal hazards in the Ōhiwa Spit Coastal Hazard Overlay.</i></p>	<p>The site has been identified as vulnerable to inundation and in response to this risk, a flood management response plan has been prepared to mitigate this risk by putting in place procedures which enable staff and residents to safely evacuate the site in the event of flooding.</p> <p>This is an acceptable response in this situation, given that the proposal has been assessed as not increasing the effects of natural hazards relative to other permitted uses of the site. Policies 18.2.1.1 – 18.2.1.3 recognise that the avoidance of risk may not be possible and that a mitigation strategy is an appropriate approach in these situations.</p> <p>Whilst the introduction of a new land use activity within a hazard-prone area is not preferred, the applicant has been unable to find viable alternative sites which are suitable and has an urgent need to provide these support services to the community. Much of the land within the Opotiki township and in the surrounding area is vulnerable to flooding and whilst the predicted flood depths are significant, the consequence of inundation on the functioning of the building and the displacement of occupants would similarly apply to many other sites within the Opotiki township, which are below the 1% AEP flood level.</p>
<p><b>Objective 18.2.3</b></p> <p><i>An informed community aware of the natural hazards that can occur in the District, including the likely frequency, scale and intensity anticipated from these hazards.</i></p>	<p><b>Policy 18.2.3.1</b> <i>Ensure that all Council databases on natural hazards are kept as current as possible.</i></p> <p><b>Policy 18.2.3.2</b> <i>Provide the community and resource consent applicants with all available information that Council holds on natural hazards within the District.</i></p> <p><b>Policy 18.2.3.3</b> <i>Council will undertake a programme of natural hazard risk assessment for the District. As this natural hazard information is obtained it will be inserted into the District Plan by way of variation or through the Plan Change process.</i></p>	<p>The applicant is aware of the natural hazard risks which apply to the site and has adopted a strategy to mitigate this risk.</p>

<p><b>Objective 18.2.4</b>  <i>Ensuring that hazard related works avoid adverse effects on matters of national importance.</i></p>	<p><b>Policy 18.2.4.1</b> <i>Any hazard related works that potentially impact on matters of national importance demonstrate consideration of a range of appropriate alternatives to avoid adverse effects on finite resources.</i></p>	<p>The proposal does not involve natural hazard works which will affect any matters of national importance.</p>
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In summary, it is considered that the proposal is consistent with the objectives and policies of the District Plan.



## 5.3.2 DISTRICT PLAN ACTIVITY STANDARDS

TABLE 4: ACTIVITY STANDARDS																
RULE	COMPLY	INFRINGE	ACTIVITY STATUS	COMMENT												
<b>CHAPTER 8 - RURAL ZONE</b>																
<b>8.6.1 Site Coverage</b> Non-residential activity sites No limit, subject to compliance with the other Zone Standards.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	The current and proposed use of the site is non-residential, therefore no site coverage limit applies.												
<b>8.6.2 Height</b> The maximum height for buildings shall be 9m.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	No additional buildings are proposed.												
<b>8.6.3 Daylight protection'</b> 45 degrees from a height of 2.7m.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted													
<b>8.6.4 Yards</b> All buildings shall be located at least 5m from a boundary with an adjoining site. All buildings shall be set back at least 9m from the road boundary.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted													
<b>8.6.6 Noise</b> All activities on a site shall be designed and conducted so as to ensure that the following noise limits are not exceeded at any point within the boundary of any Rural Zone site. <table border="1" data-bbox="245 1048 560 1223"> <thead> <tr> <th colspan="3">Noise Limits dB</th> </tr> <tr> <th>Receiving Zone</th> <th>Daytime</th> <th>Night time</th> </tr> </thead> <tbody> <tr> <td></td> <td>7am to 10pm, Monday to Sunday including public holidays</td> <td>At all other times</td> </tr> <tr> <td>Coastal Zone</td> <td>50LAeq</td> <td>40LAeq 70LAmax</td> </tr> </tbody> </table> Construction noise in any Zone shall be measured and assessed in accordance with the provisions of NZS 6803P:1999 Acoustics - Construction Noise.	Noise Limits dB			Receiving Zone	Daytime	Night time		7am to 10pm, Monday to Sunday including public holidays	At all other times	Coastal Zone	50LAeq	40LAeq 70LAmax	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	The proposal involves activities that are similar to residential land use in terms of noise generation. On this basis it is anticipated that the relevant noise limits will be met. The site manager will be responsible for ensuring noise levels meet these requirements.
Noise Limits dB																
Receiving Zone	Daytime	Night time														
	7am to 10pm, Monday to Sunday including public holidays	At all other times														
Coastal Zone	50LAeq	40LAeq 70LAmax														
<b>8.6.6.2 Lighting and Glare</b> All exterior security lighting and floodlighting shall be designed, installed and maintained so that light emitted does not overspill the property boundaries or cause a distraction or glare which could cause a traffic hazard on adjacent roads.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	Any exterior security lighting will not overspill beyond the property boundaries. The site is well setback from the road and will not cause light distraction or glare which could a cause traffic hazard.												
<b>8.6.8 Loading and Access</b> On-site provision for loading and access shall be provided in relation to every activity whether new, extended or where the activity has changed, as follows: 1. Provision shall be made for the loading and unloading of service vehicles on-site, and at the rear of sites in such a way that no footpath or access to adjoining properties is blocked. 2. No vehicle access shall be located within 15m of an intersection.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	The site has sufficient land area available to provide the required manoeuvring areas.												
<b>8.6.9 Vehicle Entrances</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	The existing entrance will be retained and is suitable to the												

Vehicle entrances shall be designed and constructed to comply with Appendix 4.				level of traffic generated by the facility.
<b>8.6.10 Floor levels</b> Floor levels shall be sufficient to ensure that water does not enter buildings in a 1% AEP (Annual Exceedance Probability) event within the Coastal Environment or 2% AEP event for areas outside the Coastal Environment. Council will determine the appropriate freeboard that needs to be added to the flood level to set the required minimum floor level.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	No additional buildings are proposed.
<b>8.6.12 Potable Water Supply</b> A potable water supply shall be provided to each site within the zone.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permitted	The site has an existing water supply which will be utilised for the activity.
<b>8.6.16 Signs</b> A sign with a maximum area of 1.1m <sup>2</sup> shall be a controlled activity in relation to any public purpose or on the same site as any of the following activities: 1. Recreation reserves 2. Churches and other places of assembly 3. Education facilities 4. Hospitals 5. Community activities 6. Visitor accommodation 7. Tourist or special information, including places or points of special interest.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Controlled	Residential care facilities are not specifically listed within this rule, however, the activity is covered by the definition of a community activity, which includes the use of land and buildings for social and cultural services, including facilities associated with health clinics.  A sign has been erected at the entrance to the site. The sign meets the size limit specified in Rule 8.6.1.6.

### 5.3.3 OTHER MATTERS

Section 104(1)(c) allows Council to consider any other matters that are relevant and reasonably necessary to determine the application.

There are no other matters that are relevant or necessary to assist Council in determining this application.

### 5.3.4 SECTION 104 ASSESSMENT CONCLUSION

The potential adverse effects of this proposal will be less than minor and acceptable.

This assessment has also demonstrated that this proposal is consistent with the relevant objectives and policies and meets the assessment criteria.

Overall, the relevant matters of section 104 of the Act have been comprehensively covered within this section and provides Council with sufficient information to make a determination under section 104B of the Act.

## 6. NOTIFICATION ASSESSMENT

### 6.1 PUBLIC NOTIFICATION

The following tables provide an assessment of the steps that a consent authority must follow to determine whether to publicly notify an application for resource consent.

TABLE 5: SECTION 95A - STEPS FOR DETERMINING WHETHER PUBLIC NOTIFICATION IS REQUIRED UNDER S95A			
STEP	RMA SECTION	RESPONSE	COMMENT
ONE: Mandatory public notification in certain circumstances	95A(3)(a) the applicant requests public notification of the application	No	The applicant does not request public notification.
	95A(3)(b) public notification is required after a s.92 request for further information as stipulated in section 95C	No	This is not a relevant consideration at this stage.
	95A(3)(c) an application is being jointly made to exchange recreational reserve land under section 15AA	No	This application does not involve the exchange of reserve land under the Reserves Act.
TWO: Public notification precluded in certain circumstances	95A(5)(a) The activity or activities are subject to a rule or national environmental standard which precludes public notification.	No	Not every applicable rule under which resource consent is being sought under the District Plan precludes public notification.
	95A(5)(b)(i) The application is a controlled activity	Yes	The overall activity status is discretionary under the District Plan.
	95A(5)(b)(ii)	N/A	Repealed as of 30 <sup>th</sup> September 2020.
	95A(5)(b)(iii) The application is a restricted discretionary, discretionary activity, or non-complying activity, but only if the activity is a boundary activity	No	The proposed activity is not a boundary activity.
	95A(5)(b)(iv)	N/A	Repealed as of 30 <sup>th</sup> September 2020.
THREE: Public notification required in certain circumstances	95A(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	No	The application is not subject to a rule requiring public notification.
	95A(8)(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.	No	The proposed activities will not result in effects on the environment which are more than minor.

FOUR: Public notification in special circumstances	95A(9)	No	This proposal involves the conversion of an existing RSE accommodation facility to provide a residential care facility.  There is nothing exceptional or out of the ordinary in this application that would constitute a special circumstance to warrant public notification.
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<b>TABLE 6: SECTION 95D - CONSENT AUTHORITY DECIDES IF ADVERSE EFFECTS LIKELY TO BE MORE THAN MINOR FOR THE PURPOSE OF SECTION 95A(8)(B)–</b>	
<b>RMA SECTION</b>	<b>COMMENT</b>
(a) must disregard any effects on persons who own or occupy— (i) the land in, on, or over which the activity will occur; or (ii) any land adjacent to that land; and	The effects on the persons identified in 95D(a) (i) and (ii) have been disregarded.
(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and	The aspects of the proposal that are permitted have been outlined within Section 6.2 of this report.
(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and	The activity status is discretionary.
(d) must disregard trade competition and the effects of trade competition; and	The proposal will not result in trade competition.
(e) must disregard any effect on a person who has given written approval to the relevant application.	No written approvals have been obtained
<b>ASSESSMENT</b>	
Having disregarded the effects of the proposal on the owners and occupiers of the subject property and adjoining land, any effects on the wider surrounding environment will be less than minor. This is primarily due to the location of the site, the separation from neighbouring properties and the nature of the proposed activity. The actual and potential effects of the proposal have been discussed in detail in section 6 of this report which has determined that the effects will be less than minor. Natural hazard risks have been considered in detail and it has been determined that these effects can be mitigated to a level where the residual effect is no more than minor.	

The notification assessment provided above has demonstrated that:

- Public notification is not mandatory under Step One;
- Public notification is precluded under Step Two;
- The adverse environmental effects of the activity will be no more than minor (Step Three); and

- No special circumstances exist under Step Four.

Accordingly, it is considered appropriate for this application to be processed without the need for public notification.

## 6.2 LIMITED NOTIFICATION

Having determined that public notification of the application under s95A of the RMA is not necessary, the following tables provide an assessment of the steps that a consent authority must follow to determine whether to require limited notification of an application.

STEP	RMA SECTION	RESPONSE	COMMENT
ONE: Certain affected groups and parties must be notified	95B(2) There is an affected person, affected protected customary rights group, or affected customary marine title group	No	There are no affected customary rights groups or affected customary marine titles groups.
	95B(3) Whether the land is adjacent to, or may affect, land that is subject of a statutory acknowledgement	No	The subject site is not on or adjacent to land that is subject to a statutory acknowledgement, nor will it affect any land that is subject to a statutory acknowledgement.
TWO: Limited notification precluded in certain circumstances	95B(6)(a) The activity or activities are subject to a rule or a national environmental standard which precludes limited notification	No	Not every applicable rule under which resource consent is being sought in the District Plan precludes limited notification.
	95B(6)(b)(i) The application is for a controlled activity under a District Plan (excluding subdivision)	No	The overall activity status is discretionary under the District Plan.
	95B(6)(b)(ii) A prescribed activity	No	The application is not for a prescribed activity (under s360H(1)(a)(ii) of the RMA.
THREE: Certain other affected persons must be notified	95B(7) In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.	No	The proposal is not a boundary activity.
	95B(8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E	No	No persons will be affected. This is assessed in the table below.
FOUR: Further notification in special circumstances	95B(10) Determine 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	No	There is nothing exceptional or out of the ordinary in this application that would constitute a special circumstance to warrant limited notification.



<b>TABLE 9: SECTION 95C - CONSENT AUTHORITY DECIDES IF PERSON IS AN AFFECTED PERSON</b>	
<b>RMA SECTION</b>	<b>COMMENT</b>
(1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).	
(2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section, —	
(a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and	The aspects of the proposal that are permitted have been outlined within previous sections of this report. In this case, a relevant permitted baseline for the proposed land use activity is the current use of the facility as RSE accommodation for 12 people or two residential dwellings. The effects of the activity must be assessed against this baseline. This has been discussed in more detail in previous sections of this report.
(b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and	The proposal is a discretionary activity therefore consideration of the effects is not limited. All relevant effects have been addressed in previous sections of this report.
(c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.	The proposal will not adversely affect any statutory acknowledgement areas.
(3) A person is not an affected person in relation to an application for a resource consent for an activity if—	
(a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or	No written approvals have been obtained.
(b) the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.	This is not a relevant consideration.
<b>ASSESSMENT</b>	
It is considered that the adverse effects on the owners and occupiers of adjacent properties will be less than minor. The relationship of the site to the neighbouring dwellings is discussed in section 3 of this report. There is only one neighbouring dwelling within 100m of the proposed facility. The proposed activity requires relatively minor modifications to the existing buildings on the property and will not create nuisance effects such as noise, dust or odour. It is anticipated that the separation distance between the site and the neighbouring dwellings will ensure that any effects will be less than minor. It is expected that the activities carried out on the site will meet the permitted activity noise limits in the District Plan.	

The above assessment has demonstrated that:

- There are no affected groups or persons under Step One;
- Limited notification is not precluded by Step Two;
- The effects of the activity on any person will be less than minor (Step Three); and

- There are no special circumstances under Step Four.

Accordingly, it is considered appropriate for this application to be considered without the need for limited notification.

### 6.3 NOTIFICATION SUMMARY

Based on the assessment in the preceding sections, it is considered that this application can be considered without the need for either public or limited notification.

## 7. CONCLUSION

The applicant seeks consent to change the use of an established property at 19a Baird Road, Opotiki to provide a residential care facility with ancillary office space. The activity is a discretionary activity in the Rural Zone under the Opotiki District Plan.

An assessment of this proposal has been prepared using Schedule 4 of the Act and covers the matters that Council must consider when making a decision on an application under section 104 of the Act. The assessment has:

- Demonstrated that the proposal is consistent with the purpose and principles of the Act;
- Found that the potential adverse effects on the environment of the proposal will be minor and acceptable for the receiving environment; and
- Concluded that the proposal is consistent with the relevant objectives, policies and assessment criteria of the applicable statutory documents.

A consideration of this proposal against both the public and limited notification requirements of the Act has concluded that this application does not warrant notification under sections 95A-95E of the Act.

Taking all of the above into account, the Council has sufficient information to make a decision on this application and it is appropriate for consent to be granted in accordance with section 104B of the Act.

# APPENDICES

## **APPENDIX 1**

# **RESOURCE CONSENT APPLICATION FORM**

**APPENDIX 2**  
**RECORD OF TITLE**



**APPENDIX 3**  
**APPLICATION DRAWINGS**

**APPENDIX 4**  
**BOPRC FLOOD LEVEL REPORT**

**APPENDIX 5**  
**EMERGENCY RESPONSE PLAN**

**APPENDIX 6**  
**SCHEDULE 5 WASTEWATER ASSESSMENT**