

**IN THE MATTER**

of the Resource Management  
Act 1991

**AND**

**IN THE MATTER OF**

discharge and land use resource  
consents for the operation and  
maintenance of the Wairoa  
wastewater treatment plant and  
sewer pump station overflows

**BY**

**Wairoa District Council**

**Applicant**

---

**STATEMENT OF EVIDENCE OF CAMERON JAMES DRURY ON BEHALF OF  
WAIROA DISTRICT COUNCIL**

16 November 2020

---

## **INTRODUCTION**

1. My name is Cameron James Drury.
2. I am the Principal Planner and Director of Stradegy Planning Limited.
3. My evidence is given in relation to the application for resource consents for the Wairoa Wastewater Treatment Plant ("**WWWTP**") by Wairoa District Council ("**WDC**").

## **QUALIFICATIONS AND EXPERIENCE**

4. I have the following qualifications and experience relevant to the evidence I shall give:
  - a) Bachelor of Environmental and Resource Planning; and
  - b) a Second Specialization in Water and Wastewater Technologies.
5. I have 16 years professional planning experience.
6. During this time, I have worked with the Hawke's Bay Regional Council and Napier City Council as a Consents Planner and a number of private consultants as a Senior Planner.
7. I am a Full Member of the New Zealand Planning Institute and hold a current RMA Hearing Commissioner certification.

## **CODE OF CONDUCT**

8. I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## BACKGROUND AND ROLE

9. I prepared the Planning Assessment (Stradeqy, 2018:C9)<sup>1</sup>, a supporting document to the application prepared by Lowe Environmental Impact (LEI). I have attended both pre hearing meetings, have contributed to the development of the proposed conditions of consent and confirm I have visited the site and general area of the activity several times over the last few years.

## PURPOSE AND SCOPE OF EVIDENCE

10. I will present the following evidence in two main sections. In the first I will respond to matters raised in the Section 42A Report, and in the second to matters raised in submissions.
11. I refer to the **Bundle of Common Attachments** included in Mr Lowe's evidence that contains a suite of conditions recommended by the Reporting Officer that contain further changes proposed by the Applicant, reasons for which are traversed in this evidence.

## RESPONSE TO MATTERS RAISED IN THE SECTION 42A REPORT

12. The Section 42A report is clear in that consent can be granted subject to:
  - (1) (a), the potential effects on the mahinga kai, particularly as a result of the installation/construction of the proposed replacement outfall structure being addressed, and (b), the results of the recent seabed (riverbed) survey along the outfall alignment being made available,
  - (2) Evidence that written approval has been obtained from Te Rohe o Te Wairoa Reserves Board - Matangirau to occupy and to discharge wastewater into Whakamahi Lagoon Government Purpose (Wildlife Management) Reserve, and,
  - (3) The intended pathway to secure land for irrigation and additional storage being addressed.

---

<sup>1</sup> This report is divided into two analysis sections. The first identifies the relevant planning provisions referred to in Section 104(1)(b) and Schedule 4(2)(2) of the Resource management Act. The second provides specific commentary around the condition framework proposed to give effect to/implement the various components of the proposal and goes on to assess the proposal in regard to the relevant provisions referred to in Section 104(1)(b) so as to inform an overall judgement in terms of Part 2 of the RMA. This analysis is completed with consideration of the proposed consent duration followed by a final summary

13. In regard to (b), Dr Mead has provided and commented on the results of the recent seabed (riverbed) survey along the outfall alignment in his evidence, and has gone onto comment on the potential effects on the mahinga kai, particularly as a result of the installation/construction of the proposed replacement outfall structure in regard to (a).
14. In terms of the new outfall, Dr Mead has considered the construction methodology, the duration of works, the extent of disturbance, the characteristics of benthic communities and measures to be adopted under the Environmental Management Plan to assess the impact of the works on the immediate benthic environment as well as the wide benthic environment as a result of any residual suspension of solids. Dr Mead has concluded that the effects of the proposal in both regards will be no more than minor, relatively short term and localised.
15. In terms the actual or potential effects arising from the discharge on mahinga kai, in his evidence Dr Mead determines that such resources are limited in the proximity of the discharge/mixing zone, but considers the proposal will reduce the scale of existing effects in any case.
16. In terms of (2), **Figure 1** in the Bundle of Common Attachments shows the outlet of the new outfall structure beyond the boundaries of the Whakamahi Lagoon Government Purpose (Wildlife Management) Reserve (the Reserve) – meaning it will be only a portion of the structure and associated occupation that occurs within the Reserve and not the discharge of treated municipal wastewater (the discharge).
17. Therefore, a Concession will only be required for the structure that passes through the Reserve, not for the discharge.
18. The Reporting Officer correctly identifies the decision-making power over any applications for a Concession (in the case of the Reserve) lies with the Te Rohe o Te Wairoa Reserves Board – Matangirau.
19. A Concession application for the new outfall structure is in the process of being prepared. Nevertheless, I am not aware of any requirement in the Resource Management Act 1991 for approval to a Concession under the Conservation Act 1977 to be obtained prior to or as part of deciding on a Resource Consent application.
20. Therefore, this Resource Consent application can be decided separate to that process, with approval of it under the Resource Management Act 1991 not

being subject to any approval processes of Te Rohe o Te Wairoa Reserves Board – Matangirau as implied by the Reporting Officer.

21. Regarding (3), in his evidence Mr Lowe has provided an overview of the likely pathway for securing land for irrigation and storage. The conditions of consent provide a regulatory framework to ensure progress towards this.
22. I also note that Condition 44 is proposed to be amended to ensure the initial 10,000m<sup>3</sup> of storage is established within 3 years of the commencement of consent. This is in line with the outcomes anticipated.
23. I consider the 3 points identified by the Reporting Officer on page 5 of the Section 42A Report have been addressed – meaning there are no obstacles to the Officer’s recommendation to grant consent.
24. Prior to turning to matters raised in submissions and suggesting amendments to the recommendations for conditions of consent, there are a number of further matters raised within the commentary of the Section 42A Report - some of which relate to substantive assessment matters and others to the nature of conditions. While it does not appear that they detract from the Reporting Officer’s recommendation that consent can be granted, I have nevertheless identified them as follows and will respond to each in turn:
  - a) Guiding Aspirations and Positive Effects
  - b) Consideration of the Cultural Impact Assessment
  - c) Effects on Water Quality
  - d) Effects on Marine Ecology
  - e) The New Outfall Structure
  - f) Pump Station Overflows
  - g) Median Flow with Respect to the Discharge Regime
  - h) Assessment of Alternatives
  - i) Policy Context and Evaluation
  - j) Monitoring
  - k) Consent Duration

I) Review Clauses

**GUIDING ASPIRATIONS AND POSITIVE EFFECTS**

25. On page 9 of the Section 42A Report the Reporting Officer states that no weight should be given to Table 3.1 on page 17 of the Application/AEE document owing to its aspirational nature. To clarify, it was this overview that (in part) enabled the proposed condition framework to be developed and presented to the Council as the proposal to be considered.
26. On page 51 of the Section 42A Report the Reporting Officer makes reference to the applicant '*unfortunately*' focusing on the '*aspirational package*'<sup>2</sup> in weighing the positive effects of the proposal.
27. Under Section 3 of the Resource Management Act the term effect includes positive effects, while Section 104(1)(a) requires both actual and potential effects (including positive effects) to be given regard.
28. Having provided for the outcomes expressed in Table 3 to be worked towards under conditions of consent, realisation of them are 'potential' positive effects

**CONSIDERATION OF THE CULTURAL IMPACT ASSESSMENT**

29. In auditing the Cultural Impact Assessment prepared by Mr How, the Reporting Officer states on page 37 at para 74 that the main message taken from the CIA for the applicant to do is – "*a commitment made to continued research into achieving 100% drinkable water quality for wastewater discharge to waterways as an alternate option to 100% land based wastewater discharge*"
30. I disagree with this summary and note the numerous recommendations and concluding points on pages 24 and 25 of Mr How's report. Specifically, Mr How states:
- a) *the initial 5-year stage of The Package establishes a solid framework for mitigating tangata whenua world view concerns;*
- b) *the 6-10 year stage of The Package positively builds on the framework established for mitigating tangata whenua world view concerns;*

---

<sup>2</sup> Section 42A report, para 135

- c) *the 11-20year stage of The Package is a significant step to incorporating the river's cultural values as part of daily operations, with significant reduction of wastewater discharge to the river; and*
- d) *the 21-30year stage of The Package continues to greatly improve the operations of the WWWT in a manner which realistically incorporates tangata whenua world views, but does not fulfil them by removing wastewater discharge to waterways completely or providing wastewater discharge of drinkable quality.*

31. In relation to the proposed conditions, in his report on page 25 Mr How went on to state:

- a) *mitigation measures almost fully align with legislative requirements and tangata whenua requirements to incorporate their worldviews as part of the cultural and physical health of the river and sites affected by the WWWT wastewater discharges;*
- b) *monitoring measures provide a platform for tangata whenua and WDC to continue to work collaboratively to assess and enhance the cultural and physical health of the river; and*
- c) *consent conditions provide a platform for tangata whenua and WDC to continue to work collaboratively to assess and enhance the cultural and physical health of the river and sites affected by the WWWT wastewater discharges.*

32. I consider these to be important findings from the CIA.

#### **EFFECTS ON WATER QUALITY**

33. As outlined in para 88 of the Section 42A report, recommendations provided by Dr Kelly and Mr Dempsey regarding consent conditions have been included in the recommended draft consent conditions, specifically the discharge quality parameters in Condition 14. These recommendations to avoid, remedy or mitigate effects on water quality are accepted by the Applicant.

#### **EFFECTS ON MARINE ECOLOGY**

34. In weighing effects on marine ecology the Reporting Officer has reported on the concerns raised by Dr Kelly. These have been addressed in Dr Mead's evidence.

35. With reference to the last bullet point on page 41 of the Section 42A Report – that Dr Kelly has since provided proposed consent conditions to provide for a suitable monitoring framework, I confirm:
- a) *The Reporting Officer's amendments to Condition 25 requiring monitoring objectives to be included in the In-River Monitoring Plan are accepted with minor alterations. I also note that based on Dr Mead's evidence the frequency of sampling the various water quality and benthic parameters can now be included in Condition 26.*
  - b) *The Reporting Officer's amendments to Condition 48 in relation to the content of the Monitoring Report and how it is to be prepared are accepted with minor alterations, however the annual frequency of it is not supported. This is expanded upon below.*
  - c) *The Reporting Officer's amendments to Condition 51 to include a summary of all monitoring undertaken in the System Review reports is accepted, noting that due to the link between Conditions 51 and 52, the recommended amendments to Condition 52 are not necessary.*

#### **THE NEW OUTFALL STRUCTURE**

36. Construction of the new outfall structure is raised in paras 96 – 101 of the Section 42A report. At the time of lodgement, the need to replace the outfall structure was anticipated and a condition framework proposed, involving the necessary consents under the applicable rules being identified and applied for. The approach was also considered in regard to the Objectives and Policies of the Regional Coastal Environment Plan<sup>3</sup>
37. Since lodgement however, the approach to replacing the outfall has been refined and a specific solution developed - to which more specific conditions of consent can relate.
38. With more specific details the Reporting Officer has undertaken an Assessment of Environment Effects in Table 8 of the Section 42A Report. Outstanding matters include:
- (1) The results of the recent seabed (riverbed) survey along the outfall alignment in regard to the potential effects on the mahinga kai,

---

<sup>3</sup> Refer Section 6.2.1 of the Planning Assessment (Stradegy, 2018:C9)



(2) The comments of Mr Harte in his memo dated 13 October 2020 (attached to Mr Kuta's evidence) that:

a) [paraphrased] the nominal pipe cover of 1.5m **could** [emphasis added] be increased to 2m at the outfall to reduce the risk of scouring at the outfall<sup>4</sup>.

b) 'The geotextile bag placement **could** [emphasis added] be extended out to cover the last 20m of pipeline'<sup>5</sup>.

39. In terms of (1), Dr Mead has provided and commented on the results of the recent seabed (riverbed) survey along the outfall alignment.

40. Regarding Item (2), these outcomes have not been referenced in Conditions, nor is it clear from the terminology as to whether they are suggestions or recommendations. In terms of increasing the pipe cover at the outfall, in evidence Mr Tear has stated this is not necessary. I confirm however that extending the geotextile bag placement to cover the last 20m of the pipeline is acceptable to the Applicant.

41. The second matter in regard to the outfall structure is raised in para 101 of the Section 42A Report and this relates to the ability under Condition 33 (suggested by the Reporting Officer to be struck out) to modify, extend or relocate the structure.

42. This was promoted by the Applicant on the basis that over the term of the consent river conditions may change and the outfall may need to be altered to respond to this so as ensure proper functioning.

43. The Reporting Officer has effectively declined this on the basis that '*changes are likely to impact interested parties such as (but not limited to) Te Rohe o Te Wairoa Reserves Board - Matangirau, customary rights and customary marine title applicants, the submitters and depending on the changes, public notification may be warranted*'<sup>6</sup>.

---

<sup>4</sup> Statement of Evidence, Laddie Kuta, memo dated 13 October 2020, page 134 of the Section 42A Report

<sup>5</sup> Statement of Evidence, Laddie Kuta, memo dated 13 October 2020, page 134 of the Section 42A Report

<sup>6</sup> Page 44, Para 101, Section 42A Report

44. The potential for river conditions to change and the need for the outfall to be altered is seemingly not the matter of debate, rather the process to make changes.
45. Noting the Reporting Officer's views, it is proposed that Condition 33 remain, but be limited to the ability to 'slide' the outlet diffuser along the new outfalls pipeline alignment in the event that the main channel was to migrate closer to the true right bank.
46. This limits the scale and extent of effects, and provided the works were undertaken in accordance with the type of construction methodologies and management procedures as proposed as part of its initial installation (those being considered as part of this application), the scale of effects would arguably fall within the envelope of effects considered and approved under this consent process.
47. The amendments referred to above ensure there is sufficient certainty around the scale of associated effects, measures to avoid, remedy or mitigate them while avoiding potential delay in responding to issues that pose the potential for greater effects and costs that are arguably unnecessary.
48. Although the original proposal certainly sought greater flexibility, the approach now proposed is in essence only slightly more than the extent of maintenance allowed under Rule 118 of the Regional Coastal Environmental Plan.

#### **PUMP STATION OVERFLOWS**

49. In paragraph 132 of the Section 42A Report the Reporting Officer effectively declines consent to discharge municipal wastewater from the Alexandra Park, North Clyde and Kopu Street pump stations during times where their pump and storage capacity is exceeded as a result of high inflow and infiltration arising from periods of high rainfall.
50. The Reporting Officer cites the following reasons for this:
  - a) *Improvements to the network should not require this to continue,*
  - b) *That any such discharge would be considered to fall under Section 330 of the Resource Management Act<sup>7</sup>.*

---

<sup>7</sup> Emergency Works and Power to Take Preventive or Remedial Action

51. Paragraph 103 of the Section 42A Report would also seem to imply that the emergency overflow structures from the Alexandra Park, North Clyde and Kopu Street pump stations should be removed. This requires clarification but seems to be reinforced under the first bullet point in para 213.
52. If the recommendation is for them to be removed, this is objected to for the reasons referred to in Mr Heath's evidence.
53. On the basis that overflow discharges, regardless of the network improvements, cannot be totally avoided under all storm events, the potential for a discharge to occur was determined as foreseeable. On this basis, it was understood that a resource consent was required, and it was for this reason that overflow discharges were proposed to be authorised as part of the application. This was also seemingly the view of the Council's Enforcement Officer's with previous overflow discharges being noted as points of non-compliance (refer Table 3 of the Section 42A Report pages 16 and 17). This would not have been the case if they were a Section 330 matter.
54. If the view of the Panel is that no resource consent is required, then the Reporting Officer's amendments to the conditions of consent in this regard can be accepted. A clear finding of fact to this effect would be anticipated to be included in the Decision Report.
55. If however the Panel take the view that resource consent is required, then Resource Consents (AUTH-123624-01 and AUTH-124094-01) should be granted, with Condition 50 remaining to avoid, remedy or mitigate any associated adverse effects.

#### **MEDIAN RIVER FLOW WITH RESPECT TO THE DISCHARGE REGIME**

56. In para 116 of the Section 42A Report it is recommended a median flow for the Lower Wairoa River of 79.18m<sup>3</sup>/s is used with reference to the discharge regime outlined in Conditions 7 and 8, and to this effect, the definition of 'River flows – ½ median. Median and 3x Median' in the definitions table of the recommended conditions has been amended. As outlined in Mr Lake's evidence, this is accepted.
57. The amendments to Conditions 7 and 8 are also accepted.

## ASSESSMENT OF ALTERNATIVES

58. In Section 8 of the Section 42A Report the Officer provides a summary of the various alternatives reported on in the Best Practicable Option Report<sup>8</sup>.
59. As outlined in the Executive Summary of that report, the Best Practicable Option (BPO) selection process involved a broad range of participants, and subsequently a broad range, and in some cases, quite novel options. Respecting the contributions made by the parties, all options raised were reported on. Options and the BPO process are discussed in Mr Lowe's evidence.
60. In para 154 the Officer states 'the applicant has undertaken a suitable assessment of alternative options in regards to the proposal'.
61. The Reporting Officer also states:
- a) *in para 155 'I agree with the policy evaluation that the applicant has undertaken.'*
  - b) *in para 190 'the applicant has provided a full assessment against the provisions of the RCEP and RRMP'*
  - c) *in para 195, 'In general, I agree with the assessment undertaken by the applicant in relation to both the RCEP and RRMP provisions summarised above and set out by the applicant in the application document Wairoa Wastewater Treatment Plant Discharge Resource Consent Application – Planning Assessment prepared by Stradegy, 2018:C9, with the exemption pending the outcome of the potential effects on the mahinga kai, particularly as a result of the installation/construction of the proposed replacement main outfall structure needs to be addressed'.*
62. Putting the exemption pending the outcome of the potential effects on the mahinga kai to one side, what is clear from the Reporting Officer's statements in relation to the assessment of alternatives, and subsequently the BPO assessment, is that the Reporting Officer agrees that the proposal meets Guideline 3(a)(i) in Table 16-1 of Policy 16.1 of the Regional Coastal

---

<sup>8</sup> Wairoa Wastewater Treatment and Discharge Best Practicable Option – Prepared by LEI dated October 2018 (LEI, 2018;B4)

Environment Plan<sup>9</sup>. Further, there is no disagreement with the outcome of the Applicants BPO assessment.

## **POLICY CONTEXT AND EVALUATION**

- 63.** The Reporting Officer states in para 185 of the Section 42A Report that *'I agree with the assessment undertaken by the applicant that the proposal is not inconsistent with the New Zealand Coastal Policy Statement'*, and further in para 188 states:

*'In regard to the proposal's consistency with the RPS, I agree with the commentary provided by the applicant and their assessment<sup>58</sup>. The applicant explains that the proposal can be considered to be consistent with the objectives and policies of the Regional Policy Statement. The investment and ongoing maintenance/reporting/monitoring proposed is in line with this regional policy.'*

- 64.** Apart from suggesting the need for further consideration of various provisions relating to the construction of the new outfall, for which there is now specific detail on, the Reporting Officer confirms in numerous paragraphs in the Section 42A report that there is no disagreement in regard to the assessments of the relevant provisions of the Regional Coastal Environment Plan and Regional Resource Management Plan in the Applicant's Planning Assessment.
- 65.** Similar comments are made in para 205-207 in regard to the Part 2 assessment provided in the Planning Assessment.
- 66.** Returning to the new outfall, Objectives and Policies pertaining to structures and the associated occupation of space are contained in Chapter 18 of the Regional Coastal Plan and are considered to be the most applicable.
- 67.** Objective 18.1 is adverse effects on the environment arising from the use and development of structures in the coastal marine area are to be avoided, remedied or mitigated. Objective 18.2 seeks the same in regard to the occupation of space.

---

<sup>9</sup> **Guideline 3. Sewage discharges**

- (a) The discharge of sewage from land which does not pass through soil or wetland, directly into water in the coastal marine area is inappropriate, unless:
- (i) the disposal of sewage directly into the coastal marine area is the best practicable option and ...

68. Of most relevance, Policy 18.1 sets out the environmental guidelines under which structures and any associated occupation of space in the coastal marine area are to be managed in accordance with. An analysis of these is provided in **Annex A**. Overall, the construction of the proposed outfall and its associated occupation of space within the coastal marine area is not considered to compromise any of the applicable environmental guidelines.

## **MONITORING**

69. As previously outlined, the Reporting Officer's amendments to the monitoring requirements in Conditions 14 (discharge quality parameters), 25 (requiring monitoring objectives to be included in the In-River Monitoring Plan) and 48 (the content of the Monitoring Report and how it is to be prepared) are accepted with minor alterations, however the annual frequency of the Monitoring Report in Condition 48 (for all matters listed) is not supported.
70. Based on Dr Meads evidence the frequency of sampling the various water quality and benthic parameters can now be included in Condition 26.
71. This leaves to matters to consider in relation to monitoring, one, the frequency of the Monitoring Report and two, the opportunity for the monitoring framework under Conditions 14 and 26 to be reviewed and revised under the conditions of this consent as opposed to a Section 127 variation process.
72. In regard to the frequency of the Monitoring Report, in his evidence Dr Mead has outlined what he considers should be reported on annually and what is best reported on 2 yearly – being those matters where analysis of trends over time and updates on upgrades and use of alternative receiving environments is sought. Amendments to Condition 48 have been made to this effect.
73. Regarding the opportunity for the monitoring framework to be reviewed and revised under Condition 56, in his evidence Dr Mead refers to a number of reasons why flexibility around monitoring is required in a dynamic river environment.
74. I further note that the development of a monitoring plan/strategy is a technical matter – one that both Dr Mead and Dr Kelly agree needs to be done by scientists with specific experience and expertise on those topics<sup>10</sup>. In this regard, the proposed condition contains ample opportunity for technical review.

---

<sup>10</sup> Refer evidence of Dr Mead and page 110 of the Section 42A Report – evidence of Dr

75. Overall, the intent of the approach is to acknowledge parameters of interest may change over time and to enable efficiency where appreciate. The approach is low risk as Council has the ability to refuse to certify the Monitoring Strategy, meaning the default option for further consideration would be the Section 127 variation process in any case.

#### CONSENT DURATION

76. My original views around consent duration are outlined in Section 8 of the Planning Assessment<sup>11</sup>, in which I identified that the proposal qualified in terms of the criteria in Section 8.2.4 of the Regional Resource Management Plan<sup>12</sup> to be granted for a period of 20 to 35 years. Although the Reporting Officer does not 'step this out' so to speak, the recommendation that consent be approved for 20 years confirms agreement around this first step.
77. In terms of the second step i.e. where between 20 and 35 years the term of this consent should fall, it is a matter of determining any reasons why a consent duration of less than 35 years is appropriate.
78. In considering this matter, the Reporting Officer states in para 219 that the following statement from Section 8 of the Planning Assessment is flawed:

*This is achieved through implementation of a series of initial actions followed by a framework of reviews and further actions to achieve specific objectives around increased storage and the establishment of land based discharge options [underlining add]*

79. The reason provided by the Reporting Officer in para 220 is:

*'there is no mechanism requiring the applicant to provide for a land based discharge or to increase their storage capacity therefore the above comment made by the applicant is flawed and cannot be enforced by the proposed consent conditions they have offered. And there is no certainty that private land owners are willing to discharge the wastewater onto their properties other than the one application Council currently has on hold, which may or may not be granted*

---

Kelly

<sup>11</sup> Planning Assessment (Stradegy, 2018:C9)

<sup>12</sup> Section 29.2.3 of the Regional Coastal Environment Plan contains the same criteria plus (g), being 'at the time of granting consent, the effects of the activity are/were unknown or little understood and a precautionary approach is adopted'

80. Although not prescriptive in terms of stating exact timeframes or locations around storage or land application, the Planning Assessment's statement is not flawed.
81. Firstly, the conditions of consent set down a series of initial actions that have been committed to along with a timeframe (refer conditions 38, 44, 45 and 46 pertaining to the UV treatment, storage, Wastewater Education Plan and Catchment Enhancement Plan, and more recently Condition 40 pertaining to mortuary waste).
82. Secondly, these initial actions are followed by a framework of reviews (refer Conditions 51, 52 and 53 pertaining to the three sets of System Review and Improvement Plans spanning a 25 year period).
83. Thirdly, the very purpose of these reviews is to work towards:
- Reducing discharge volumes to the River during low flows (refer Condition 51(Aa),
  - Increased storage (refer Condition 52(a))
  - The establishment of land based discharge options (refer Condition 52(b))
84. The second reason the Reporting Officer provides for not recommending a 35 year consent duration is outlined in para 218 where it is stated that 'the findings and conclusions of the information and scientific reports provided by the Applicant in relation to the proposal and its effects are not considered sufficient'. This is at odds with the view that the criteria in Section 8.2.4(d)<sup>13</sup> of the Regional Resource Management Plan has already been met.
85. Lastly, the fact that the Concession process for the new outfall has not been completed has been factored into consent duration considerations in para 221. With the Concession process under the Conservation Act 1987 being a separate legislative process to a Resource Consent process under the Resource Management Act 1991, I do not consider this to be a relevant consideration.

---

<sup>13</sup> The type of activity has effects that are unknown or potentially significant for the locality in which it is undertaken



- 86.** On balance, the Section 42A report contains no compelling reasons not to grant consent for a duration of 35 years, and in this regard I refer you to Section 8 of the Planning Assessment which remains relevant.
- 87.** Reviewing the sequence of conditions however, the first System Review Report is required by year 5, with the second by year 10 and the third by year 20 (as agreed to and recommended by the Reporting Officer).
- 88.** The System Improvement Plan associated with the third System Review Report is required to be provided to the Council within 6 months of that review, which would be within year 21. The 20 year term recommended by the Reporting Officer would therefore derail this process (which has been agreed to and recommended by the Reporting Officer). Furthermore, resources would need to be directed to the consent replacement process, which could have an impact on implementation of initiatives to reduce discharges to the river.
- 89.** Returning to year 21, works in accordance with the final System Improvement Plan would then commence. As outlined in Condition 52(a)(ii) and (b)(ii), these are targeted to involve works to increase storage to 200,000-400,000m<sup>3</sup> and establish 600ha of land application. The design, construction/installation and commissioning process will inevitably take time.
- 90.** Based on this sequence (as agreed to and recommended by the Reporting Officer), it is likely that it will not be until at least year 25 that a full and proper replacement application could be prepared to really assess the effects of the activity to be replaced. Furthermore, and as with this application, time would be required for public engagement and the preparation of technical inputs to inform the replacement application.
- 91.** On this basis, and while there still appears to be no reason not to grant for a period of 35 years, having reviewed the logical sequence of events as set down in the recommended conditions of consent, that sequence suggests that the minimum consent duration is 27 years for the full implementation in accordance with consent conditions which fits well with the 35 year term sought.
- 92.** I also note that the consent authority also has the ability to review the conditions of consent. The level of reporting and defined stages of the consent present ample and sensible opportunities for this exercise if needed, and there is little reason to opt for a shorter consent duration as a preferred alternative.

## REVIEW CLAUSES

- 93.** The Reporting Officer has recommended a further 7 reasons for review under (e) – (k) of Condition 55 as follows:
- (e) To modify the median Wairoa River levels as calculated and recorded in the definition of River Flows.
  - (f) To address any requirement to report annually on a set of national environmental performance measures.
  - (g) To modify the design and management of wastewater networks to meet the national good practice guidelines.
  - (h) To monitor emerging contaminants in wastewater and coordinating national responses where necessary.
  - (i) To add or amend monitoring provisions and to add provisions for implementation of works or actions that are identified in the certified In-River Monitoring Plan and Cultural Health Index.
  - (j) To deal with any relevant changes as a result of the development of wānanga and karakia options.
  - (k) To modify the design of the Outlet structure to suit the requirements of Te Rohe o Te Wairoa Reserves Board – Matangirau.
- 94.** Reason for Review (e) is acceptable, however (i) is unnecessary as it is already provided for under (b)<sup>14</sup>. Notwithstanding the views of Mr Lowe in regard to (h) (referred to below), this would also be provided for under (b).
- 95.** Reason for Review (j) has not been explained so at this stage is not supported, while any changes to the design of the outlet structure to suit the requirements of Te Rohe o Te Wairoa Reserves Board – Matangirau would be best addressed through a Section 127 variation process by the Applicant rather than a review of the consent by the Consent Authority. Reason for Review (k) is therefore not supported.

---

<sup>14</sup> To modify the monitoring programme required by the resource consent or require additional monitoring if there is evidence that the current monitoring requirements of the resource consent are inappropriate or inadequate.

**96.** Returning to (f), (g) and (h), in his evidence Mr Lowe has stated that the performance measures, national good practice guidelines and issue of emerging contaminants relate to potable water supplies and not wastewater discharges.

**97.** Reason for Review (f), (g) and (h) are therefore not supported.

## **RESPONSE TO MATTERS RAISED IN SUBMISSIONS**

**98.** The Reporting Officer has summarised the matters raised in submissions and I agree with this summary.

**99.** Since the closure of submissions two pre hearing meetings have been held together with further meetings with Ngati Kahungunu Incorporated to discuss how conditions could be drafted to address matters of concern.

**100.** With the matters being complex and with original views as expressed in the original submissions now potentially influenced by various meetings and iterations of conditions of consent, it is difficult to provide a specific response to the matters originally raised in submissions.

**101.** I am of the view however that the conditions have been refined to:

- a) More clearly state the anticipated outcomes of the consent (refer Conditions 1 and 2),
- b) Provide for greater collaboration and engagement with tangata whenua in a meaningful way and in a manner to inform decision making (refer Conditions 3 and 53),
- c) Better provide for cultural monitoring (refer Conditions 28 and 29),
- d) Resolve issues associated with the poor performance of the existing outfall (refer Condition 31),
- e) Reduce the occurrence of pump station emergency overflows (refer Conditions 39, 34 and 53) and improve Council's notification and response procedures should such an event occur (refer Condition 50),
- f) Establish a framework to review how mortuary waste is best managed (refer Condition 40),

- g) Include greater certainty around UV treatment (refer Condition 38) and the initial 10,000m<sup>3</sup> of additional storage (refer Condition 44),
- h) Improve Condition 46 relating to broader catchment enhancement initiatives and to include broadscale habitat mapping as a tool.

## **CONCLUSIONS AND RECOMMENDATIONS**

- 102.** The primary focus of the proposal is to develop an adaptive and progressive management framework that provides opportunity for the Applicant to put in place a series of measures that are intended to reduce uncontrolled overflow discharges, improve the quality of effluent and reduce discharges to the river under a best practicable option approach.
- 103.** To achieve this, the proposed condition framework has been developed along the principles of a MERI (Monitoring, Evaluation, Reporting and Improvement) strategy. The proposed conditions provide for initial implementation that is monitored, followed by evaluation and reporting to develop further actions according to strict objectives, built into the consent, that are then implemented thereafter. The proposed framework provides a roadmap towards enhancing water quality, being the very outcome sought by the array of planning documents against which this proposal is being assessed and provides for considerable community input over the term of consent.
- 104.** In having regard to the relevant provisions of the applicable planning documents, the proposal is considered to be largely consistent with their direction and outcomes.
- 105.** Cultural and social interests have been the primary driver, but overall, the proposal provides a platform for continuous improvement over time so as to progressively improve the robustness of the wastewater system and to work towards an enhancement in water quality guided by a road map that provides direction and the ability/time to make informed and considered decisions as contributed to by the community and monitoring data.
- 106.** In coming to a broad judgment, the proposal overall is considered to be consistent with the principals and purpose of the RMA and deserving of consent.
- 107.** Specific consideration has been given to consent duration taking Section 8.2.4 of the Regional Resource Management Plan and Section 29.2.3 of the Regional Coastal Environment Plan into account. A term of 35 years is considered an

appropriate term so as to provide for the proposed approach which is considered to represent the most clear, constructive and certain approach to giving effect to the outcomes sought by the community in improving the water quality of the river.

**Cameron James Drury**

**16 November 2020**

## **Annex A: Policy 18.1 Analysis**

Issue	Guideline	Comment
1. Removal and demolition of redundant or abandoned structures	<p>The following requirements shall be met in relation to any redundant or abandoned structure, shipwreck or vessel that is fixed in, on, under, or over the foreshore or seabed:</p> <p>(i) where removal is practicable, such structures should be removed at the expense of the owner or consent holder to enhance public access, navigational safety, people's health and safety and natural character of the coastal marine area.</p> <p>(ii) where removal of such structures is not practicable and there are adverse effects caused by the structure remaining in the coastal marine area, those adverse effects should be avoided, remedied or mitigated</p>	<p>The redundant outfall structure will be removed to avoid any unforeseen damage or accidents This is consistent with Policy 4.1.3 of the NZCPS.</p>
2. Functional need	<p>(a) Existing and lawfully established structures and new small-scale structures directly associated with activities that have a functional need to locate in, or adjacent to, the coastal marine area (including aquaculture activities and network utility operations), shall be provided for.</p> <p>(b) Structures that have a functional need to locate in the coastal marine area may be appropriate where:</p> <p>(i) they do not adversely affect navigation and mooring within navigation channels</p> <p>(ii) they do not adversely affect coastal hydrological and geomorphic processes</p>	<p>N/A</p> <p>The pipe will be buried below the bed of the river, while the diffuser will also be to depth. Harbour Board requirements will dictate the need for the structure to be registered on navigational charts. I also note the Officer has recommended a condition to ensure the structure does not impede the river for recreational use (refer Condition 32(e)).</p> <p>With a large proportion of the assembly work being undertaken on land, disturbance of the riverbed will be limited to:</p> <ul style="list-style-type: none"> <li>• Installing the two piles to support the diffuser,</li> <li>• Dredging around the piles to install the diffuser structure,</li> <li>• Excavating the trench within the bed and preparing the temporary launchway on the river bank to install the pipestring,</li> <li>• Diving the piles to anchor the pipestring,</li> </ul>

Issue	Guideline	Comment
	<p>(iii) they do not contribute to a proliferation of structures in the coastal marine area or do not promote the inefficient use of existing structures, facilities and network utility corridors</p> <p>(iv) adverse effects on historic heritage, sites of cultural significance, indigenous flora, fauna, benthic organisms and their habitats, are avoided, or mitigated where avoidance is not practicable.</p> <p>(c) Erection, placement, use of, and occupation of space by structures that do not have a functional need to locate in the coastal marine area is inappropriate and shall not be provided for.</p>	<ul style="list-style-type: none"> <li>• Backfilling the trench,</li> <li>• Installing the geotextile bags to form a scour mat around the diffuser.</li> </ul> <p>The extent of this disturbance is relatively minor, and with the area of works being characterized by soft sediments, the associated disturbance following reinstatement is unlikely to present a risk in terms of bed stability, and there is unlikely to be any long term or ongoing acceleration of the rate of erosion or accretion of the bed.</p> <p>Overall, the construction methodology seeks to limit the duration and extent of disturbance, the period of disturbance itself will be limited, and complete reinstatement of the bed is anticipated without the risk of any significant long term change to the form and function of the bed. Effects on water quality and ecological values are considered below.</p> <p>The proposal involves only once structure for network utility purposes.</p> <p>Effects have been considered and found to be no more than minor.</p> <p>Owing to the location of existing infrastructure, the structure has a functional need to be located where proposed, while its length is to reduce the scale of effects associated with the distance of municipal wastewater from the diffuser at the end.</p>
3. Construction materials	Use of constructions materials containing hazardous substances in quantities which will adversely affect the life supporting capacity of the coastal marine area shall be avoided	Construction materials are not expected to adversely affect the life supporting capacity of the coastal marine area.



Issue	Guideline	Comment
4. Public access and other uses	<p>(a) Structures and activities occupying space in the coastal marine area shall be established and operated in a manner that maximises public use and access, except where public access is inappropriate.</p> <p>(b) Structures and activities occupying space in the coastal marine area should not unnecessarily restrict or prevent other uses of space within the coastal marine area.</p>	The structure will compromise access to the coastal marine area
5. Aquaculture activities	A precautionary approach shall be adopted to development of aquaculture activities within Aquaculture Management Areas to ensure that the erection, placement, use of, and occupation of space by structures associated with aquaculture activities in the coastal marine area avoid, as far as practicable, any adverse effects (including cumulative effects) on the coastal environment. Where complete avoidance is not practicable, adverse effects should be remedied or mitigated.	N/A
6. Coastal hazards	<p>(a) Structures in the coastal marine area should not be located in, or adjacent to areas that are, or are likely to be, subject to coastal erosion, unless:</p> <ul style="list-style-type: none"> <li>(i) it is for a temporary activity and/or</li> <li>(ii) it protects or enhances natural buffers between existing development and the sea and</li> <li>(iii) it presents a less than minor risk of exacerbating coastal erosion or inundation.</li> </ul> <p>(b) Structures should only be used to mitigate coastal hazards when:</p> <ul style="list-style-type: none"> <li>(i) it is the best practicable option and</li> <li>(ii) no other non-structural alternative is effective or feasible to reduce coastal hazard risk and</li> <li>(iii) the structure is to serve a use with a functional need in the coastal marine area or is to protect existing development and network utility operations from current erosion or inundation risks and</li> <li>(iv) the structure is to be located and designed so as to avoid adverse environmental effects to the greatest extent practicable, particularly effects on coastal processes and natural character.</li> </ul>	The structure is considered to present a less than minor risk of exacerbating coastal erosion or inundation.