



159 Dalton Street + Private Bag 6006 + Napier  
Telephone (06) 835 9200  
Fax (06) 835 3601  
Regional Freephone (06) 0800 108 838

**Office Use**

Previous Consent No. \_\_\_\_\_  
Charge No. \_\_\_\_\_  
Client No. \_\_\_\_\_  
Consent No. \_\_\_\_\_

## Application to Discharge Contaminants to Water

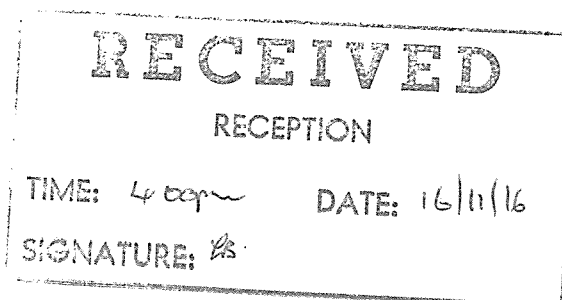
### What is the purpose of this application?

- New Consent**   
Deposit of \$1150.00
- Change of Conditions of Existing Consent**   
(Deposit of \$575.00)
- Replacement of Existing Consent**   
(Deposit of \$1150.00)

Please note: if your consent is notified additional deposits are required,  
We will advise you if your application will be notified  
*All fixed deposits are Inclusive of GST*

### IMPORTANT: PLEASE READ

- Any questions please contact Council's Consents Advisor on 06 833 8090, or email: [louise.mcphail@hbrc.govt.nz](mailto:louise.mcphail@hbrc.govt.nz)
- The deposit must accompany your application.
- Fill in all fields, and write not applicable if appropriate. Questions may be answered in attached documentation
- After the form is completed, submit (top right corner), print, sign and send the original, along with deposit to: Consents Advisor, Hawke's Bay Regional Council, Private Bag 6006, NAPIER 4142
- For payments via online banking, please email your completed form to the consent advisor, and ask for a payment reference, then post the signed copy in.
- **Ensure you have signed your form.**



**1. APPLICANT DETAILS**

1.1 **Who is this consent to be issued to?** - Full legal name of Applicant(s) are required. For Trusts/Estates/Partnerships, the name of the Trust/Estate/Partnership **and** full legal names of all trustees/executors/partners are required .

Trust  Partnership  Company  Private Person(s)

Trust or Company Name Pan Pac Forest Products Ltd (Pan Pac)

First name(s): \_\_\_\_\_

Middle name(s): \_\_\_\_\_

Last name(s): \_\_\_\_\_

Contact Person Dale Eastham, Environmental Manager

1.2 **Applicant's Postal Address** \_\_\_\_\_ Telephone Pvt. \_\_\_\_\_

Private Bag 6203 Bus. 06 831 0100

Napier Mob. \_\_\_\_\_

\_\_\_\_\_ E-mail Dale.Eastham@panpac.co.nz

Post Code: 4142 \_\_\_\_\_

1.3 **Address for service** this is a consultant, contractor, or other person handling the application on your behalf - *leave blank if not applicable*

Contact Person \_\_\_\_\_ Telephone Pvt. \_\_\_\_\_

Philip McKay Bus. 06 8344098

Mitchell Daysh Ltd Mob. 0274 955442

PO Box 149, Napier Fax. \_\_\_\_\_

Post Code: 4140 E-mail philip.mckay@mitchelldaysh.co.nz

1.4 **Who is the final invoice (bill) to be sent to?**  The Address for service  
 The Applicant

1.5 **For replacement consents**  
Consent number being replaced \_\_\_\_\_

I am happy for my application to be processed anytime before the expiry date.

**2. SITE DETAILS**

2.1 **Property Owner's Name & Address** Telephone Pvt. \_\_\_\_\_

Same as Applicant (*skip to next question*) \_\_\_\_\_ Bus. \_\_\_\_\_

(1161 State Highway 2, Whirinaki) Mob. \_\_\_\_\_

\_\_\_\_\_ Fax. \_\_\_\_\_

\_\_\_\_\_ E-mail \_\_\_\_\_

2.2 **Location of Activity** (Street Address of property)

1161 State Highway 2, Whirinaki, Hawke's Bay 4120



All Applicants need to complete all of the questions following.

If a particular section is not applicable to your application,  
please state this;  
leaving the section empty is not sufficient.

If applying for a change to the conditions of a current consent, please provide details of what will change when answering each question, and if there will be no change, state "no change".

**4. DETAILS OF THE ACTIVITY**

4.1 **Where will the effluent be discharged?** (name lake, stream or coastal area)

No Change.

---

---

4.2 **What is the activity from which the discharge occurs and why is the activity being undertaken?**

No Change.

---

---

---

---

4.3 **How often does the discharge occur?** (e.g. continuously, daily, weekly, monthly, seasonal – give details)

No Change.

---

---

---

4.4 **How will the effluent be discharged?** (full details: any discharge pipe or other structure and any method of discharge e.g. timing)

No Change.

---

---

---

---

---



4.5 **What is the maximum discharge rate?** No Change. litres/sec  
**What is the maximum volume discharged in a day?** No Change. cubic metres  
**What is the maximum volume discharged in a week?** No Change. cubic metres  
**Provide discharge volume calculation**  
No Change.

---

---

---

---

---

4.6 **Describe the nature of the discharged effluent, including details of the contaminants (a laboratory analysis of the discharge may be necessary).**  
No Change.

---

---

---

---

---

---

---

---

4.7 **Describe fully the treatment of the effluent proposed prior to discharge. (e.g. anaerobic digestion, oxidation pond, chemical flocculation, chlorination)**  
No Change.

---

---

---

---

---

---

---

---

---

---

---

---

4.8 Provide a plan sketch of the general layout of the site in the space provided below. Include the discharge point.

No Change, but aerial photograph of the site is included in the attached application.

4.9 What is the likely fate of any contaminants in the discharged material?

No Change.

---

---

---

---

---

---

4.10 Does the proposed activity involve:

Outlet structure	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Erosion risk	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Silt build up	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Note: If yes to any of the above, a separate application for each activity may be required.

**5. ASSESSMENT OF ENVIRONMENTAL EFFECTS**

**5.1 Describe the environment, including water quality, ecology and sediment/substrate characteristics.**

A full Assessment of Effects on the Environment is provided in the attached application. See pages 9 - 24.

---

---

---

---

---

---

---

---

---

---

With regards to section 5.2 below, see section 4.1.3 of the attached application for a description of the nature of the discharge and sensitivity of the receiving environment.

**5.2 Within a reasonable distance of the site of the activity, do you know of any:**

- Obvious signs of aquatic life (e.g. fish, eels, insect life, crayfish)? Yes  No
- Areas where food is gathered from the watercourse (e.g. watercress, eels, wildfowl)? Yes  No
- Significant wetlands (e.g. large swamp areas)? Yes  No
- Waste discharges ( e.g. from cowsheds, piggeries, sewage treatment plants)? Yes  No
- Recreational activities (e.g. swimming, canoeing, fishing, boating)? Yes  No
- Areas of particular cultural, spiritual, aesthetic, scientific or amenity value (e.g. scenic waterfall, rapids, waahi tapu archaeological sites)? Yes  No

**5.3 Please estimate a zone of reasonable mixing from the discharge point and comment on how this has been determined.**

No Change.

---

---

---

---

**5.4 Allowing for reasonable mixing, are any of the following likely to be observed in the receiving waters?**

- Suspended materials, scums or foams Yes  No
- Conspicuous change in colour clarity Yes  No

**5.5 Comment on the possible detrimental effects on the following.**

Ecology (e.g. river and lake habitat, benthic communities, vegetation, fish and fisheries, wildlife, shellfish beds)

See sections 4.1.3 & 4.2.3 of the attached application.

---

---

---

Water quality

See section 4.1.3 of the attached application.

---

---

Sensitivity of receiving surface waters

See section 4.1.3 of the attached application.

---

---

The natural character of the river, lake or coastline and visual aesthetics

See sections 4.2.2, 5.2 & 6.1 of the attached application.

---

---

Cultural, spiritual, historic, recreational, scientific and amenity values

See sections 2.5, 3.2.1, 4.2.1, 4.2.4, 5.2, 5.3, 6.2 & 6.3 of the attached application.

---

---

With regard to stormwater, the effect on the environment when the discharge capacity of the pipe is exceeded (e.g. where will the surplus water go?)

No Change.

---

---

---

---

---

---

---

---

---

---

**5.6 How will the detrimental effects described in 5.5 above be reduced, and how will they be monitored?**

See section 4.1.5 of the attached application.

---

---

---

---

---

---

---

---

---

---

**5.7 What alternative methods of disposal of contaminant(s) have been considered?**  
See section 4.1.4 of the attached application.

---

---

---

---

---

---

---

---

---

---

**5.8 What alternative methods of treatment of contaminant(s) have been considered?**  
See section 4.1.1 of the attached application.

---

---

---

---

---

---

---

---

---

---

**5.9 Have any alternative receiving environments been considered, and what are the reasons for selecting the proposed location?**  
See sections 2.2, 2.4 and 4.1.4 of the attached application.

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---





**7. GENERAL INFORMATION**

**7.1 What consents are required from other authorities for the proposed activity?**

None

Consent Required	Authority	Applied for?	
None.		Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Yes <input type="checkbox"/>	No <input type="checkbox"/>

**7.2 Please list all documentation (in addition to this form) that makes up your application.**

Please ensure that all documentation listed is included with your application when it is submitted.

**No additional documentation**

Plans	Title	Plan Date
	No new plans provided as those submitted with applications	
	CD960330We & CD960330Wf remain relevant and	
	unchanged by this application.	

Reports	Title	Author	Report Date
	Same comment as for Plans.		

<input checked="" type="checkbox"/> <b>Other Documentation</b> (e.g. letters, correspondence from affected parties, additional material)		Preparation Date
Title		
Appendix 1 - Track Change Version of CD960330We showing requested amendment to Condition 21.		31/10/16
Appendix 2 - Invitation to, and Attendance form from, King George Hall Meeting, 9 August 2016		Not dated
Appendix 3 - Presentation from 9 August 2016 Meeting		9/8/16

**7.3 Have you remembered to include ... ?**

- An accurate site plan (e.g. aerial photo, certificate of title)
- A map showing the geographic location of the property
- Your deposit
- Plan of any structures for which application is being made

Plans	Title	Author	Plan Date
	None.		

**Please ensure all design plans or drawings are signed for use by the author.**



**7.4 Property Ownership**

Are you the owner of all properties that this application applies to? Yes  No   
*(if yes please move onto question 7.5)*

If no, have you discussed the application with the property owner(s)? Yes  No

Have the owner(s) given their approval for the application? Yes  No

If yes, have them fill in the approvals section below:

**To be completed by the property owner – Only if different from applicant:**  
An application to undertake an activity on your property is being made. Please confirm your approval for the activity to occur on your property by signing below.

Signature of Property owner(s): \_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Please print full name of person who signed above.

*Should you have any questions with regards to the giving of approval for this application and the legal implications, please contact the Council's Consents Advisor on 06 833 8090.*

**7.5 Costs of Debt Recovery and Information**

It is agreed by the consent holder that it is a term of the granting of this resource consent that all costs incurred by the Council for, and incidental to, the collection of any debt relating to this resource consent, whether as an individual or as a member of a group, and charged under s36 of the Resource Management Act, shall be borne by the consent holder as a debt due to the Council, and for that purpose the Council reserves the right to produce this document in support of any claim for recovery.

Please note that all information collected and held by the Hawke's Bay Regional Council is public information under section 2 of the Local Government Official Information and Meetings Act 1987 (LGOIMA), as such any and all information may be requested by a third party. Access to information held by Council is administered in accordance with LOGIMA and the Privacy Act 1993. If you have any concerns over the disclosure of any aspect of your consent or personal/property details, either in person or electronically, you must raise your concern in writing to The Council and detail what "good reason" you believe there is for withholding information pursuant to section 7 of LGOIMA. Council will assess your request and advise you of any decision made. Please note that no person has the right of veto over any information held by Council. Council intends for all information it holds, submitted without a request for non disclosure (as above), to be public, and accessible to any persons who requests it pursuant to LGOIMA. If you require more information on the situations that information may be provided please contact the Councils Consents Advisor

**To be completed by the Applicant:**  
Application is hereby made for the consent(s) detailed in this form

Signature of applicant or authorised agent: Philip McKay

Name: Philip McKay Date: 31/10/16  
Please print full name of person who signed above.

*A deposit must accompany the application. The application will not be processed until the deposit is received. Additional costs will be charged when the final cost of processing is known.*



---

Pan Pac Forest Products Ltd

**SECTION 127 APPLICATION  
FOR TEMPORARY CHANGE OF  
CONSENT CONDITIONS –  
CD960330We and  
CD960330Wf**

Condition 21 b) change in colour

## TABLE OF CONTENTS

<b>1.</b>	<b>Application for temporary change of resource consent condition – section 127 Resource Management Act 1991</b>	<b>3</b>
<b>2.</b>	<b>Background</b>	<b>6</b>
2.1	Secondary Effluent Treatment System	6
2.2	Application to extend outfall	7
2.3	Appeal	7
2.4	Expiry of Coastal Discharge consent	7
2.5	consultation with MTT	8
<b>3.</b>	<b>Statutory Criteria</b>	<b>8</b>
3.1	Section 127 ‘Change or cancellation of consent condition ...’	8
3.2	Section 107 ‘Restriction on Grant of Certain Discharge permits’	8
<b>4.</b>	<b>Assessment of Environmental Effects</b>	<b>10</b>
4.1	Information Required by Clause 6 of Schedule 4	10
4.2	Information Required by Clause 7 of Schedule 4	15
<b>5.</b>	<b>Assessment Against Part 2</b>	<b>19</b>
5.1	Section 5	
5.2	Section 6	
5.3	Section 7	
5.4	Section 8	
<b>6.</b>	<b>Assessment against documents in s104(1)(b) RMA</b>	<b>21</b>
6.1	New Zealand Coastal Policy Statement 2010	22
6.2	Regional Policy Statement	22
6.3	Regional Coastal Environment Plan	23
<b>7.</b>	<b>Notification</b>	<b>24</b>
<b>8.</b>	<b>Conclusion</b>	<b>24</b>

**Appendix 1** – Track Change version of Revised Condition 21 as sought in this application

**Appendix 2** – Invitation to and attendance form from, the community consultation meeting – King George Hall, Bay View, 9 August 2016

**Appendix 3** – Information presented as the 9<sup>th</sup> August 2016 Community Consultation Meeting

**1. APPLICATION FOR TEMPORARY CHANGE OF RESOURCE  
CONSENT CONDITON – SECTION 127 RESOURCE  
MANAGEMENT ACT 1991**

To: Hawke's Bay Regional Council  
Private Bag 6006  
Napier

**PAN PAC FOREST PRODUCTS LTD (PAN PAC), Private Bag 6203, NAPIER 4142** applies for a change of consent conditions as follows:

1. The resource consent in respect of which a change of consent conditions is sought is CD960330We being a Coastal Discharge Permit for treated effluent from the Pan Pac mill to discharge into Hawke Bay approximately 300m off shore via an outfall pipe and diffuser.
2. In the event the decision made by the Hawke's Bay Regional Council to grant a previous application to vary CD960330We (CD960330Wf) is upheld by the Environment Court,<sup>1</sup> an equivalent amendment to condition 21 of CD960330Wf is sought.<sup>2</sup>
3. The particular condition sought to be altered is condition 21 which (in the form contained in CD960330We) is set out as follows:

*Except for during one three-day period in 2012, when the discharge will not be through a diffuser, the discharge of effluent shall not cause any of the following effects 150m from the midpoint of the diffuser:*

- a) *The production of any conspicuous oil or grease films, scums or foams, or floatable materials; or*
- b) *Any conspicuous change in colour or visual clarity; or*
- c) *...*

*(Emphasis added)*

The proposed change is to add an exception to clause b) of condition 21 so that this aspect of the condition does not apply until 31 December 2017. The specific wording sought for a revised condition 21 (as to CD960330We) is as set out in Appendix 1 to this application. An equivalent change to condition 21 of CD960330Wf, in the form approved by the Court, is also sought (assuming this permit is upheld on appeal).

This change reflects the current nature of the effluent being discharged from the site. The installation of the secondary effluent treatment system in 2011 produced an unexpected side effect in addition to producing a higher quality of effluent; being that under certain sea conditions the effluent rises to the surface, producing a reddish discolouration in the vicinity of the discharge point. This breaches condition 21(b) as currently worded.

As a result of extensive investigations and analysis of the treatment system, Pan Pac has determined the following;

---

<sup>1</sup> Through a decision of that Court pending at the time of this application, in the circumstances described in the assessment of the proposed change's effect on the environment attached to this application, and with CD960330Wf having been granted by the Hawke's Bay Regional Council on 16 September 2015.

<sup>2</sup> In which case CD960330We would be superseded (replaced) by CD960330Wf. Conversely, if CD960330Wf is overturned on appeal, CD960330We would remain the extant permit.

- that the existing treatment system cannot remove the colour, nor practicably be modified to do so
- the effluent being discharged is otherwise benign in terms of environmental effects
- that the only significant adverse effect of the existing and current activity is the colour change during the circumstances described above.

As a result, a temporary exception to this sub-clause of condition 21 is sought to ensure the effluent discharge is fully compliant until the expiry of coastal discharge permit CD960330We and CD960330Wf (i.e. on 31 December 2017), in the circumstances described in this application.

4. (a) The location of the site to which this application relates is Hawke Bay approximately 300m from the coast at Whirinaki, opposite the Pan Pac mill (CD960330We). The outfall pipe extends from the effluent treatment at the southern end of the Pan Pac site, under State Highway 2 and Whirinaki Road and into Hawke Bay. In relation to revised discharge permit CD960330Wf, the location is an additional 2km offshore from the current outfall location as just described.
 

(b) With regard to the natural and physical characteristics of the site, the outfall pipe is located on the sea bed at the point of discharge. The sea bed of Hawke Bay in this location consists of a mobile bed of sand and fine sediment, experiences regular storms and is periodically covered with a sheet of brackish water when there is high flow from the Esk River<sup>3</sup>.
5. The other activities that are part of the proposal to which this activity relates are:
  - Consent CL 120058O authorising the occupation of the sea bed in the coastal marine area with a discharge diffuser, as may be restricted by s12(2) of the Resource Management Act 1991 (RMA). This consent is unaffected by the proposed change in conditions.<sup>4</sup>
6. An assessment of the proposed change's effect on the environment is attached that –
  - Includes the information required by clause 6 of Schedule 4 of the RMA; and
  - Addresses the matters specified in clause 7 of Schedule 4 of the RMA; and
  - Includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.
7. An assessment of the proposed change against the matters set out in Part 2 of the RMA is also attached.
8. An assessment of the proposed change against any relevant provisions of a document referred to in section 104(1)(b) of the RMA, including the information required by clause 2(2) of Schedule 4 of that Act, is also attached.
9. No other information is required to be included in the application by the Hawke's Bay Regional Coastal Environment Plan.

<sup>3</sup> Brief of Evidence of Dr Ian Wallis, March 2016 (to the Environment Court Hearing ENV-2015-WLG-00052)

<sup>4</sup> As would be occupation permit CL 1200580a or any replacement thereof as approved by the Environment Court, in the context of the existing variation to CD960330We (CD960330Wf) referred to above.

Date: 31 October 2016

Signature:

Philip McKay

Mitchell Daysh Ltd, person authorised to sign on behalf of the applicant.

Contact Details

Address for Service: c/- Mitchell Daysh Ltd, PO Box 149, Napier 4140

Telephone: 06 834 4098

Email: [philip.mckay@mitchelldaysh.co.nz](mailto:philip.mckay@mitchelldaysh.co.nz)

Contact person: Philip McKay



## 2. BACKGROUND

### 2.1 SECONDARY EFFLUENT TREATMENT SYSTEM

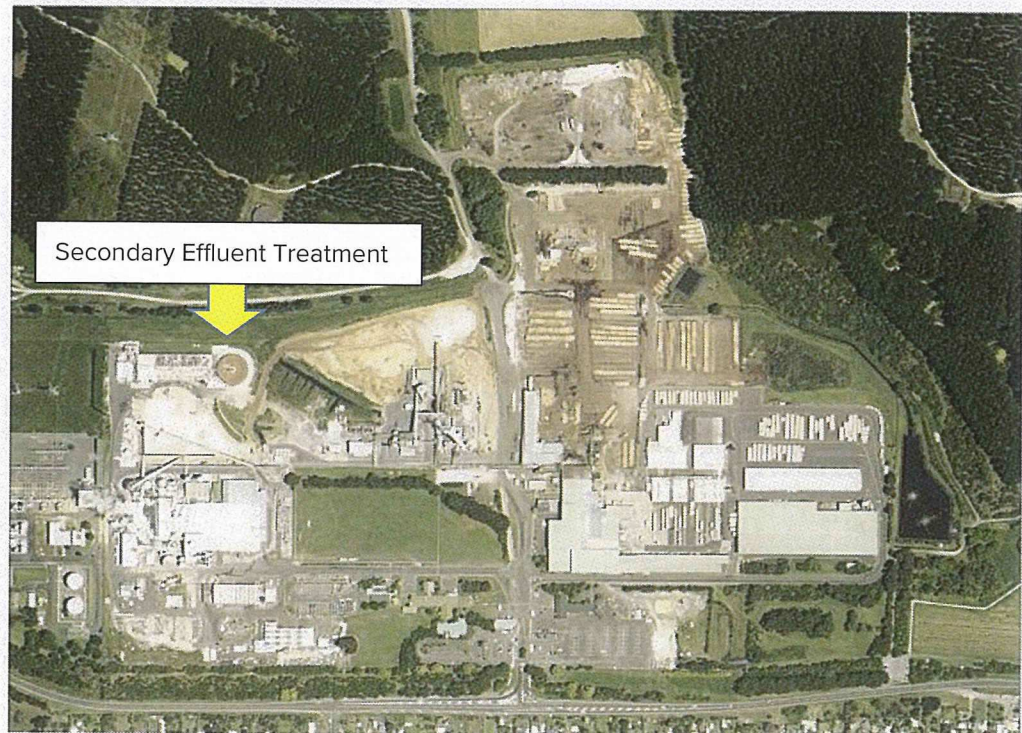
The discharge of process effluent from Pan Pac changed in 2011 when the secondary biological treatment system was installed and became operational pursuant to previous applications to vary coastal discharge permit CD960330Wb (as approved in 2010). Whilst the overall environmental quality of the effluent was improved significantly as a result of this upgrade to secondary biological treatment, there was an unexpected side effect being an increase in the darkness/colour of the effluent.

The water treatment system now consists of:

- Dissolved Air Flotation (DAF)
- Activated Sludge treatment
- Clarification

The location, means, volume and nature of discharge has not otherwise changed, and on-going analysis of the effluent has shown it to have no significant adverse effects beyond the localised discolouration, including within the current zone of reasonable mixing.

Figure 1 Aerial Image of the Site



## **2.2 APPLICATION TO EXTEND OUTFALL**

This application has arisen in the context of Pan Pac's applications for changes to its existing resource consents and for new resource consents to extend the outfall pipe and diffuser by 2,000m. The purpose of the pipeline extension is to ensure compliance with condition 21 b) of the coastal discharge permit<sup>5</sup> via greater dilution and submergence of the effluent in deeper water, to remedy the current colouration effects at the surface.

The applications to extend the outfall pipe and discharge at the new outfall location were granted by the Hawke's Bay Regional Council Hearing Panel on 16<sup>th</sup> September 2015 following a limited notification process. This resulted in a variation to the conditions of the coastal discharge permit (CD960330Wf) and the occupation consent CL1200580a. New consents CL140317C and CL140330D were also granted to enable disturbance of the coastal marine area for the installation of the extended pipeline and diffuser. The extended pipeline would result in condition 21b) being able to be met, and so in the ordinary course, it would remain Pan Pac's intention to install that extended pipeline and diffuser as soon as possible accordingly, pending determination of the appeal referred to below, and assuming the consents for the pipeline extension are upheld.

However, as an outcome of further consultation surrounding that appeal process, and in the circumstances explained in more detail below, there is now a proposal to defer construction of the extension, hence the application to vary condition 21 to create an exception to it on a temporary basis.

If this (current) application for a temporary exception is approved, that would enable any installation of the extended pipeline to be deferred, as also now explained in more detail.

## **2.3 APPEAL**

The grant of the consents referred to in section 2.2 was appealed by the Maungaharuru Tangitu Trust (MTT), one of the three parties served notice of the resource consent application. The appeal (ENV-2015-WLG-00052) was heard by the Environment Court in August 2016, with a decision currently pending.

## **2.4 EXPIRY OF COASTAL DISCHARGE CONSENT**

Coastal Discharge Permit CD960330We expires on 31 December 2017.<sup>6</sup> The change of condition 21 now being sought is requested by Pan Pac to ensure the discharge is fully compliant up to this expiry date without constructing the pipeline extension (assuming approval to this is upheld by the Court under CD960330Wf). The discharge would continue from the existing outfall location, while Pan Pac works through the Multi-Criteria Assessment (MCA) process that is proposed as a precursor to the application to replace the existing discharge permit.

The outcome of the MCA process may result in Pan Pac preparing, applying for consent and eventually constructing (if required) an alternative to the current coastal discharge, if

---

<sup>5</sup> CD960330We (as granted on 5 September 2013).

<sup>6</sup> As would CD960330Wf assuming upheld by the Environment Court.



such an option is identified as preferred through the MCA process and selected by Pan Pac.

The time required to consent and construct such an option could extend until the end of 2019 or beyond, assuming that no legal challenges are mounted to the proposal. If an alternative to a coastal discharge is identified, the pipeline extension may not need to be implemented, or only be installed on a temporary basis until the alternative is fully operational.

Alternatively, if the preferred option is a continued coastal discharge, the pipeline extension would then likely be installed (again, assuming approval to this is upheld by the Environment Court under CD960330Wf).

The MCA process is likely to be completed by or about 30 June 2017, the date on which an application to extend the discharge permit (CD960330We or CD960330Wf<sup>7</sup>) would need to be lodged, to ensure the existing activity can continue lawfully under s124 of RMA (and regardless of which option is selected for subsequent approval at the completion of the MCA process).

## **2.5 CONSULTATION WITH MTT**

MTT in representing hapu with mana whenua over this area are one of the key parties to be involved in the MCA process. Throughout the process surrounding the applications for the pipeline extension, including during the Environment Court appeal hearing, MTT have expressed a strong preference for Pan Pac not to exercise its consents to extend the discharge pipeline (assuming upheld) until the MCA process has been completed, and it is confirmed whether the pipeline extension is (or is part of) the preferred option, or an interim part of the preferred option. This variation application has been prepared and is being lodged out of respect for the firm preference as expressed by MTT.

## **3. STATUTORY CRITERIA**

### **3.1 SECTION 127 'CHANGE OR CANCELLATION OF CONSENT CONDITION ...'**

A variation or cancellation of consent conditions is processed and determined in accordance with section 127 of the RMA. Section 127(3) specifies that a variation is processed as if it were a resource consent for a discretionary activity with sections 88 to 121 applying.

### **3.2 SECTION 107 'RESTRICTION ON GRANT OF CERTAIN DISCHARGE PERMITS'**

Subsection (1) sets out that a discharge permit may not be granted where it would allow (beyond the zone of reasonable mixing):

*"(d) any conspicuous change in colour or visual clarity;"*

Subsection (2) states that a consent authority may grant a discharge permit:

*"that may allow any of the effects described as set out in subsection (1) if it is satisfied –*

---

<sup>7</sup> Assuming upheld on appeal.

- (a) *That exceptional circumstances justify the granting of the permit; or*
- (b) *That the discharge is of a temporary nature; or*
- (c) *That the discharge is associated with the necessary maintenance work –*  
*And that it is consistent with the purpose of this Act to do so.”*

In the context of this variation application, it is considered that both section 107(2) (a) and (b) apply as explained below. For the reasons addressed later in this application, it is considered that granting the temporary exception sought would be consistent with the purpose of the Act.

### **3.2.1 Exceptional circumstances (s107(2) (a))**

Exceptional circumstances are those which are “out of the ordinary” (*Marr v Bay of Plenty Regional Council* 16 ELRNZ [2010]). Exceptional circumstances surrounding this application derive from the relationship between the applications to construct the pipeline extension, and the date of expiry and need to renew the discharge permit in question (CD960330We or CD960330Wf<sup>8</sup>). It must also be recognized that the application is to address an unforeseen discoloration issue arising from an upgrade to secondary biological treatment of effluent from a long established existing activity. This upgrade otherwise significantly improved the environmental effects of the discharge (as addressed further below).

The circumstances are now such that the MCA process preceding renewal of the discharge permit has commenced. For the reasons stated in section 2 above, Pan Pac is seeking a temporary exception to condition 21, which would enable any installation of the extended pipeline to be deferred until the MCA process has been completed. It is considered that these circumstances, along with the indication of Whirinaki community acceptance of this delay, represent exceptional circumstances. Community acceptance is explained under section 4.1.6 below.

### **3.2.2 Temporary nature (s107(2) (b))**

This variation seeks to exempt the discharge from the requirements of condition 21b) of CD960330We and CD960330Wf (assuming upheld) until 31 December 2017. The exemption sought is therefore for a fixed period of limited duration and so is temporary in nature.

### **3.2.3 Section 107 Conclusion**

In this case it is considered that both sections 107(2)(a) and (b) apply. This enables the Hawke’s Bay Regional Council to consider the application for a variation to the conditions of the coastal discharge permit CD960330We and CD960330Wf on its merits.

---

<sup>8</sup> Assuming upheld on appeal.

## **4. ASSESSMENT OF ENVIRONMENTAL EFFECTS**

### **4.1 INFORMATION REQUIRED BY CLAUSE 6 OF SCHEDULE 4**

#### **4.1.1 A description of any possible alternative locations or methods for undertaking the activity (cl6(1)(a))**

In regards to this application, alternative methods would involve not seeking a variation to exempt the discharge from the requirements of condition 21b)<sup>9</sup> on a temporary basis, and instead seeking to mitigate the coloration issue. A number of options have been considered to resolve the colouration issue with the effluent discharge. These options were summarised in the brief of evidence from Peter Allan (Pan Pac, Manager Technical & Environmental) to the Environment Court hearing for the pipeline extension. Mr Allan's evidence regarding this is quoted as follows:

*"Pan Pac looked at a number of options to address the colour / effluent conspicuousness issue. Trial work commenced in February 2013 and continued through to January 2014. Options trialled included:*

*• Use of flocculants to remove effluent colour. Trials by Oji and Font demonstrated colour could be significantly reduced, but only at high levels of flocculant addition. Operational costs for all successful options were unsustainable.*

*• An additional tertiary settling or flotation stage in combination with flocculant / chemical addition. High capital costs plus high operational costs made this option unsustainable.*

*• Ozone treatment of final effluent to remove colour. Trial results were unconvincing and this option would have involved very high capital costs. On site storage and differential discharge rates between day and night. This option necessitates storage of the effluent in a dam or pond, and would have required a consent change with regard to the rate of discharge to put it into effect. But more importantly there was no certainty that discharge at a lower daytime rate would eliminate the problem of conspicuous discharge, and it was therefore an option likely to be unpalatable to the public.*

*• End of pipe options: Increased dilution and extension of the discharge into deeper water was identified as the preferred option after the trial work to determine what dilution would be necessary to remove conspicuousness. The removal of the discharge into deeper water was necessary to achieve the necessary dilution, and had the added benefit of enabling submergence of the discharge through water density stratification (the discharge being at greater depth). With greater distance off shore, any remaining visual impact on the Whirinaki settlement is also reduced. Other evidence will outline the process and results of the dilution trials.*

*Ultimately, the only option without prohibitive costs and providing certainty in eliminating the conspicuous effluent problem was identified as increasing dilution and extending the effluent discharge pipeline. The decision to fully evaluate this option was made in February 2014, and contact initially made with potential suppliers in March 2014."<sup>10</sup>*

Given the above, the only currently known viable alternative is to construct the pipeline extension, which Pan Pac are nevertheless seeking to delay until the outcomes of the MCA process are known, for the reasons stated in Sections 2 and 3 above .

<sup>9</sup> Including as set within discharge permit CD960330Wf (assuming this variation is upheld by the Court).

<sup>10</sup> Statement of Evidence of Peter Arthur Allan (ENV-2015-WLG-00052), 4 March 2016, paragraphs 47 & 48.

**4.1.2 An assessment of the actual or potential effect on the environment of the activity (c16(1)(b))**

Section 127 of RMA confirms that it is only the effects of the change of conditions sought that are relevant, in this case therefore being confined to the issue of discharge colouration that would be authorised (as being conspicuous beyond the mixing zone on a temporary basis). The remainder of the effluent discharge is already consented, with consequent effects unchanged and not relevant to the assessment. The assessment of the effects of the effluent colour (temporary discolouration beyond the mixing zone) is provided under section 4.2 of this application below.

**4.1.3 Nature of the Discharge and Sensitivity of the Receiving Environment (c16(1)(d)(i))**

The nature of the discharge remains unchanged. Again the March 2016 evidence of Peter Allan is drawn on to provide a summary of the nature of the discharge:

“Scion were commissioned to evaluate the effectiveness of the effluent treatment process in March 2015... The objectives of the study were:

- *Characterise the organic and inorganic nature of the suspended and dissolved material in the effluent stream, and*
- *Evaluate the efficiency of removal of material in the treatment plant by comparing results from samples removed at different stages of the process.*

*The work examined a wide range of constituents of the waste water stream before treatment, after the primary solids removal stage (Dissolved Air flotation) and at the effluent discharge after the biological secondary treatment stage.*

*The summary tables from the report are as follows:*

**Table 1: Calculated treatment plant removal efficiencies (%)**

Suspended solids	79.4
Dissolved solids:	
- Total	53.8
- Organic carbon	82.5
- Volatile fatty acids	99.9
- Extractives	99.6
- Inorganics	12.6
- Nitrogen (Kjeldahl)	36.6

**Table 2: Solids content and volatiles analysis of effluents (mg/L)**

	Pulp mill		DAF		Final	
	unfiltered	filtered	unfiltered	filtered	unfiltered	filtered
Total suspended solids	1027		343		212	
Volatile suspended solids	844		256		185	
Total dissolved solids		5336		5433		2463
Total organic carbon		1540		1600		270
Volatile fatty acids		951		924		1

**Table 3: Dichloromethane-extractable organics content, by compound class (mg/L)**

	Pulp mill		DAF		Final	
	unfiltered	filtered	unfiltered	filtered	unfiltered	filtered
Monoterpenes	5.2	0.6	4.0	3.7	<0.05	<0.01
Phenolics	2.8	1.0	1.7	1.2	0.4	<0.01
Fatty acids	25.2	0.7	12.8	0.8	2.3	<0.01
Resin acid neutrals	<0.05	<0.01	<0.05	<0.01	<0.01	<0.01
Resin acids	144.9	30.6	55.4	28.1	0.2	0.1
Phytosterols	1.4	<0.01	0.7	<0.01	0.3	<0.01
Total Extractives	179.5	32.9	74.6	33.8	3.3	0.1

**Table 4: Elemental analysis – summarised (mg/L)**

	Pulp mill		DAF		Final	
	unfiltered	filtered	unfiltered	filtered	unfiltered	filtered
Nitrogen (Kjeldahl)	40.6	24.2	30.0	21.3	32.5	15.4
Phosphorus	5.0	5.1	5.0	3.8	4.7	4.5
Sulphur	29.1	29.8	29.5	29.5	31.3	31.9
Metals*	781.9	762.1	781.4	774.8	638.1	660.2

The results clearly show:

- A significant reduction of dissolved solids and total organic carbon from the secondary biological treatment stage (Table 2 above).
- Almost total removal of dichloromethane extractable organics by the combined treatment process. Dichloromethane extractable organics include the potentially toxic resinous components washed into the Pulpmill waste water streams.
- Low removal of elements such as Metals, and nutrients (Nitrogen, phosphorus, sulphur) which are only partially removed by treatment, if at all.

Overall the treatment process is shown to be very effective in removing organic loading in the effluent, and the level of important organic components of the discharge (in potential toxicity terms) is minimal.”<sup>11</sup>

With regard to the receiving environment and the impacts of the discharge on it, this is summarised in the evidence of Dr Chris Hickey (NIWA Research Scientist) for Pan Pac to the Environment Court hearing for the pipeline extension. Dr Hickey’s summary is extracted as follows:

*“The efficacy of the wastewater treatment system, which includes two biological treatment components, is high with resin acids having greater than 99.5% removal efficiency. After allowing for a 100x initial dilution there was a 5x safety factor for total concentrations of both copper and zinc, and ranging up to 1000x for other metals. Trace levels of dioxins and furans were detected in the effluent – with levels 6x below the ANZECC (2000) threshold prior to discharge to the diffuser.*

*The toxicity to marine algae was measured in both 1991, prior to installation of the biological treatment systems, and in routine monitoring since 2012. Comparison of the toxicity measurements indicates that the discharged wastewater was 9-times less toxic following the implementation of the biological treatment system.*

*Toxicity testing of the wastewater is regularly undertaken at 6 monthly intervals using three species representing different trophic levels (i.e., algae, amphipod and blue mussel embryos). On one recent occasion toxicity testing was undertaken with juvenile flounder.*

*The discharge has been tested for toxicity on a total of nine occasions since the current consent was issued in 2012. On all occasions the test showed compliance with the no toxicity consent condition after the permitted 100x dilution.*

*The blue mussel embryo-larval tests were the most sensitive on eight of the nine test occasions, with the algal test being the most sensitive on one occasion. The no toxicity dilution requirement for all tests was 11x to 71x based on the most sensitive no toxicity endpoint (with up to 100x dilution allowed to achieve compliance).*

*The flounder test showed a low toxicity for a 96 h exposure to this effluent. The acute toxicity threshold value was at least 25x below the minimum predicted surface plume dilution (90 to 110x) – indicating that fish would not be adversely affected when swimming through the rising plume once it had exited the diffuser (after reaching suitable salinity conditions). A comprehensive suite of chemical analyses were undertaken on mussels living on the diffuser, on adjacent anchor blocks, and on a control site some 4 km distant. This study was to address concerns raised by Iwi and commercial fishing representatives about the safety of eating commercial fish species (i.e., snapper) that feed on mussels living along the effluent diffuser.*

*The key findings from this study were:*

---

<sup>11</sup> Statement of Evidence of Peter Arthur Allan (ENV-2015-WLG-00052), 4 March 2016, paragraphs 32 - 35.

*(a) Mussel tissue showed no significant heavy metal accumulation or differences from the Control site, 4 km distant from the discharge;*

*(b) Trace levels of total chlorinated phenols were detected in mussel tissue at all sites – with no marked difference between the Control mussels and near-diffuser mussels;*

*(c) The monitoring shows that there is an ambient low level of background contamination in the sea waters of Hawke Bay, which cannot be attributed to Pan Pac or any other single source;*

*(d) Based on a food safety assessment of mussel tissue for heavy metals and organic contaminants, contamination levels for the range of potential chemical hazards do not constitute a risk to public health.”<sup>12</sup>*

The receiving environment is not particularly sensitive in the location of the Pan Pac effluent discharge. The nature of this receiving environment is summarised in the evidence of Shade Smith (Triplefin, Consultant Marine Scientist) for Pan Pac to the Environment Court hearing for the pipeline extension as follows:

*“The seabed around these sites is a mostly featureless area with rippled muddy sand dominating the seafloor. Complex habitat is limited to tubes and burrows of shellfish and polychaetes. The epifauna (animals living on) and infauna (animals living in) of these habitats are cosmopolitan species.*

*No ecologically important habitats were identified within and in the vicinity of either the existing or proposed outfall sites, and as such neither is considered particularly sensitive from an ecological/habitat perspective.*

*The closest ecologically important habitats are first encountered at Panepaoa, located 3.6km north of the existing outfall and 3.9km from the proposed outfall site, and situated within the Moremore mātaītai reserve (which begins 1.7km from the existing outfall site and 2.1 km from the proposed outfall site).*

*In summary there is no evidence of any significant adverse effects on the benthic faunal community occurring as a result of the discharge.”<sup>13</sup>*

#### **4.1.4 Possible Alternative Methods of Discharge (cl6(1)(d)(ii))**

Alternative methods were investigated to a coastal discharge at a high level prior to the pipeline extension application. These included spray irrigation to land; evaporation and combustion; and zero effluent membrane systems. None of these options were considered to be economically sustainable by Pan Pac. Nevertheless, with the expiry of the coastal discharge permit in 2017 (CD960330We or CD960330Wf<sup>14</sup>), these options will be investigated in more detail as part of the MCA process discussed above.

This variation to condition 21<sup>15</sup> is sought to fully authorise the existing discharge while this process to consider alternative options is in progress.

#### **4.1.5 Mitigation Measures (cl6(1)(e))**

An environmentally and economically sustainable measure to remedy the colouration effects of the discharge is the extension of the pipeline and diffuser to provide for increased dilution and submergence. Assuming approval to this extension is upheld, and this current application is approved, these consents will be implemented in the event that

<sup>12</sup> Statement of Evidence of Christopher Wayne Hickey (ENV-2015-WLG-00052), 4 March 2016, paragraphs 3 - 10.

<sup>13</sup> Statement of Evidence of Shade Smith (ENV-2015-WLG-00052), 4 March 2016, paragraphs C – E & K.

<sup>14</sup> Assuming upheld on appeal.

<sup>15</sup> Including as set within discharge permit CD960330Wf (assuming this variation is upheld by the Court).

the MCA process identifies the pipeline extension as (or part of) the best effluent discharge option available or as an interim solution while an alternative option is consented and constructed. This application therefore seeks to defer the construction of the extended pipeline until the outcome of the MCA process is known, itself being a mitigation measure to address cultural concerns about the pipeline extension proposal..

#### **4.1.6 Consultation Undertaken (cl6(1)(f))**

A meeting was held at 6pm on Tuesday 9<sup>th</sup> August 2016 at the King George Hall, Bay View to update Whirinaki residents on the sea colouration issues from the Pan Pac discharge. This meeting was held prior to the Environment Court hearing (which commenced on 22 August) on the basis that a settlement may be agreed by Pan Pac, MTT and the Hawke's Bay Regional Council prior to the hearing. One of the purposes of the meeting was to gauge the acceptability to residents of not extending the pipeline to resolve the colouration issue until the outcome of the consideration of alternatives via the MCA process is known.

Invitations to the meeting were sent out by Pan Pac in a letter drop to the approximately 180 dwellings on Whirinaki Road, North Shore Road and Tait Road. The meeting was attended by 22 residents, 6 Pan Pac representatives, 2 Hawke's Bay Regional Council staff and 1 MTT representative. The meeting invitation and attendance list is attached as Appendix 2. It is noted however that only a portion of the attendees recorded their name on the attendance list. The Powerpoint presentation given to the meeting, which includes slides from Pan Pac, MTT and the Hawke's Bay Regional Council, is attached as Appendix 3.

The outcome of the meeting is not recorded in any formal minutes; however a show of hands was taken from the residents present to gauge their support for the course of action sought in this variation application, that is, to seek a temporary deletion of condition 21 b) relating to colouration, until the outcome of the alternatives assessment process is known. Most residents in attendance raised their hands in support of this course of action with several residents abstaining. No residents opposed this course of action.

## **4.2 INFORMATION REQUIRED BY CLAUSE 7 OF SCHEDULE 4**

### **4.2.1 Effects on the Community including Social, Economic or Cultural Effects (cl7(1)(a))**

Pan Pac's understanding of cultural effects has progressed throughout the process surrounding the applications for the pipeline extension. In that context, Pan Pac is now seeking to defer installation of the pipeline extension <sup>16</sup> until the MCA process is complete, for the reasons explained in section 2 and 3 above. On this basis the temporary continuation of the colouration effects of the existing discharge are understood by Pan Pac to be considered more culturally acceptable than the pipeline extension option.

The only other alternative to mitigate the colouration effects (pending completion of the MCA process), would be for Pan Pac to cease operations to stop the effluent discharge. This would have significant social and economic consequences on that component of the

---

<sup>16</sup> As approved under CD960330Wf, subject to appeal .



Whirinaki community and indeed the wider Hawke's Bay community who are employed by, or contract to Pan Pac. This would also impact negatively on the wider Hawke's Bay economy.

The positive social and economic effects of Pan Pac's operations are provided in the evidence of Tony Clifford (Pan Pac's General Manager Pulp Division) to the Environment Court hearing for the pipeline extension. The following is extracted from this evidence:

*"A BERL Report in 2016 on the economic contribution of Pan Pac estimated that the value added component of that year contributed a cumulative 5.4% of regional GDP, and the total effect of 2,930 FTE employment positions. It was further identified that the export operations of Pan Pac made up a third of volume through the Napier Port, and was the single largest customer of the Port.*

*The key statistics of the integrated Pan Pac business for the 2013/14 and 2014/15 financial years are in the following Table 2.*

*Table 2. Summary of Pan Pac financials describing contribution*

<b>SPEND into Economy</b>	<b>2013/14</b>	<b>2014/15</b>	<b>Comment</b>
Raw Material Purchases into value adding units	\$122 M	\$119 M	Costs of Logs and Chips purchased for producing Pulp & Lumber
Capital Spend	\$8.8 M	\$10.7M	Reinvested in Company
Direct Employee Salaries	\$35.6 M	\$33.8 M	
Forest Contractors Spend	\$59.6 M	\$58.4 M	Includes 450 employees in Forestry
<b>Totals of Spends above</b>	<b>\$226 M</b>	<b>\$222 M</b>	

*Salaries and wages are often considered the key direct contributor of any business to a region, but in the case of a business such as Pan Pac that is purchasing and adding value to a local resource, the direct purchase of raw materials is validly included in the contribution to regional economic wellbeing.*

*Pan Pac provides a significant economic contribution to the Hawke's Bay Region and beyond. Pan Pac directly employs 364 full time equivalent staff in the Whirinaki Operations, a further 400 full time contractors in the management of forestry silviculture and harvesting operations, and engages engineering, consultancy and support contractors from across New Zealand. The Pan Pac operation is export based and has generated overseas revenues over \$300M NZD per annum in recent years. The products sold to overseas companies are commodities in nature and have to be competitive for the business to remain economic.*

*It is often misunderstood that larger scale businesses such as Pan Pac can absorb additional costs in proportion to the sales revenue. The products being produced and sold by Pan Pac are international commodities and so rely on high volume and low margins to cover fixed costs. Any unproductive investment or any unreasonable ongoing compliance cost imposed on the base costs of the operation and which are out of step with international competitors, are unsustainable and will eventually lead to the demise of the business."<sup>17</sup>*

<sup>17</sup> Statement of Evidence of Anthony Cyril Clifford (ENV-2015-WLG-00052), 4 March 2016, paragraphs 22 – 26.

#### 4.2.2 Effects on the Locality – Landscape & Visual Effects (cl7(1)(b))

This application for the temporary exception to consent condition 21 b)<sup>18</sup> would result in the existing Pan Pac discharge being fully compliant with the consent conditions of CD960330We, and also with discharge permit CD960330Wf (assuming this variation is upheld by the Court), but *without* construction of the pipeline extension pursuant to that earlier variation being necessary to achieve compliance (before 31 December 2017). This would however authorise the continuation of the visual effect of the dark red / brown plume sometimes visible in the water above the end of the Pan Pac effluent discharge pipeline.

The existing visual effects of the colouration from the effluent discharge is summarised in the evidence of Dr Matthew Pinkerton (Principal Scientist Marine Ecology, NIWA) for Pan Pac to the Environment Court hearing for the pipeline extension. The following is extracted from this evidence:

*“At present, the effluent plume from the Whirinaki pulp mill is sometimes visible from the shore as a dark, red-brown patch in the surrounding blue-green water. Sometimes no plume can be seen.*

*The visibility of the plume depends on the:*

*a. viewing conditions (the angle of viewing, time of day, whether the sky is cloudy or clear, the sea-state);*

*b. colour intensity of the effluent (which changes from day to day).”<sup>19</sup>*

In terms of the frequency of the red/brown plume being visible from the shore, this is most common during the summer period. This is outlined in more detail in Mr Allan’s evidence to the Environment Court hearing for the pipeline extension as follows:

*“Determination of whether the discharge is conspicuous or not, and extends beyond the mixing zone, is somewhat subjective. However it seems clear that the discharge is frequently conspicuous, in particular during the summer months with appropriate sea and light conditions. The following graph (Figure 3) provides the percentage of days when at least one photo has been judged as having a conspicuous discharge. This evaluation is possibly overstating the frequency of unacceptable appearance, with many days when the effluent is conspicuous outside of the mixing zone for a brief period of time only. However it does highlight that the problem is real, and most prevalent in the months December to May, which of course includes the time when residents of Whirinaki want to obtain maximum enjoyment from their beachside location.*

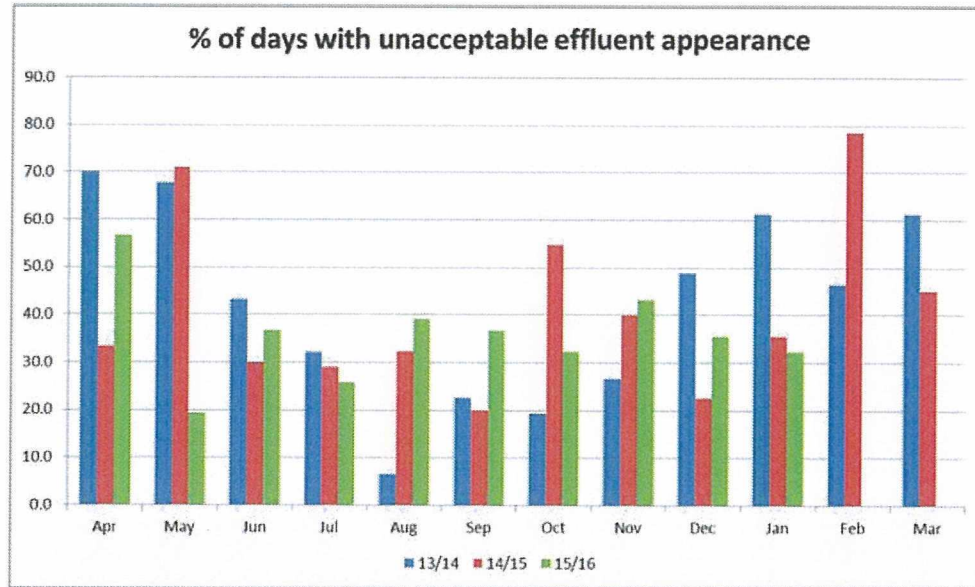
*Figure 3: % of days with at least one photo with unacceptable effluent appearance.”<sup>20</sup>*

---

<sup>18</sup> Including as set within discharge permit CD960330Wf (assuming this variation is upheld by the Court).

<sup>19</sup> Statement of Evidence of Matthew Harry Pinkerton (ENV-2015-WLG-00052), 4 March 2016, paragraphs 5 & 6.

<sup>20</sup> Statement of Evidence of Peter Arthur Allan (ENV-2015-WLG-00052), 4 March 2016, paragraph 42.



Despite this assessment, and in the context described above (including the outcomes of consultation with Whirinaki residents) a temporary authorisation to visual effects (beyond the mixing zone) particularly during the summer months is being sought through this application for a variation of consent conditions.

#### 4.2.3 Any Effect on Ecosystems (cl7(1)(c))

As stated in section 4.1.3 above Dr Chis Hickey, Research Scientist for NIWA gave evidence for Pan Pac to the pipeline extension appeal stating that:

*The discharge has been tested for toxicity on a total of nine occasions since the current consent was issued in 2012. On all occasions the test showed compliance with the no toxicity consent condition after the permitted 100x dilution.*

This consent variation only affects the condition relating to coloration and visual clarity and does not seek to alter any aspect of the existing discharge, which will therefore continue to have no more than minor effects on ecosystems, including through meeting the “no toxicity” consent condition.

#### 4.2.4 Effects on Resources with Special Values (cl7(1)(d))

RMA Schedule 4, Clause 7(1)(d) refers to:

*“Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations.”*

Clearly the existing and proposed ongoing colouration from the discharge has aesthetic effects on the view of the Pacific Ocean from Whirinaki.

In regards to other values, concerns regarding the spiritual and cultural effects of the discharge are acknowledged, and were the substantial focus of the recent Environment Court hearing for the pipeline extension consents. It is in this context, and for the reasons explained in section 2 and 3 above, that this consent variation application is being made.

#### 4.2.5 Options for the Treatment and Disposal of Contaminants (c17(1)(e))

These have been discussed in sections 4.1.1 and 4.1.4 of this application above. Alternative options to Pan Pac's coastal effluent discharge are to be assessed in the MCA process preceding the expiry of the existing discharge consent<sup>21</sup> on 31 December 2017. This current variation application is to seek an exception to the condition relating to colouration to enable the MCA process to be completed and until the current discharge consent expires.

### 5. ASSESSMENT AGAINST PART 2

#### 5.1 SECTION 5

The purpose of the RMA is stated in section 5(1) as being "*to promote the sustainable management of natural and physical resources.*" Section 5(2) defines sustainable management as:

*"...managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

In regards to social and economic well-being, as discussed under 4.2.1 above, the Pan Pac operations make a significant contribution to the regional economy. The Pan Pac Whirinaki operations are significant at a regional level in Hawke's Bay in terms of enabling people and communities to provide for their economic, social and cultural well-being. This is relevant if the alternative to granting this consent is considered to be closure of the Pan Pac operations to remedy the colouration effects.

At a localised level, the existing discharge, creating a dark red/brown plume at times, could be said to be affecting the social well-being of Whirinaki Beach residents in terms of their use and enjoyment of the foreshore for passive recreation and their ocean outlook. Given the recent consultation meeting outlined in 4.1.6 above however, Pan Pac understands that the Whirinaki residents are prepared to accept these effects in the short term at least, while the MCA consideration of alternative effluent options is being completed.

So far as Pan Pac understands the position, allowing this consent variation to defer the need for the discharge pipeline extension (assuming approval to this is upheld) is positive in regards to the cultural well-being component of sustainable management, for the reasons stated in sections 2 and 3 above

In terms of the environmental safeguards in 5(2)(a)-(c), the scientific evidence of Dr Hickey, Mr Smith and Dr Ian Wallis produced for the pipeline extension court hearing, is that the

---

<sup>21</sup> I.e. as to both discharge permit CD960330We and CD960330Wf (assuming this variation is upheld by the Court).

biophysical effects from the existing discharge are no more than minor. Allowing the temporary exception to condition 21(b) to enable the discharge to continue on a fully compliant basis therefore gives effect to (a) in terms of sustaining the natural resource of the Whirinaki coastal waters; and (b) in terms of safeguarding the life supporting capacity of water and ecosystems. In terms of (c) it follows that biophysical effects will be able to be avoided, remedied or mitigated and cultural effects will be better provided for by the grant of this consent variation application. The visual effects of discolouration would however remain, so that a more acceptable outcome (in regards to cultural effects) can be further assessed in the short term, before commencing work to extend the pipeline.

## 5.2 SECTION 6

Section 6 of the RMA identifies 'matters of national importance' that must be recognised and provided for. Of potential relevance to this application, are sections (a), and (e) which are set out as follows:

*(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

*(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*

With regards to 6(a) the wider Whirinaki environment is heavily modified with the Pan Pac mill, State Highway 2 and the Whirinaki Beach residential settlement all reducing the natural character of the area. In terms of the coastal marine area, as already acknowledged there will be an intermittent visual effect in terms of discolouration of the ocean surface that would be provided for by the granting of this application .

Section 6(e) is relevant in regards to nga hapū with mana whenua and mana moana over the Whirinaki coast in terms of their culture, traditions, and relationships with coastal resources. As set out in the various briefs of evidence on behalf of MTT to the pipeline extension court hearing, their people have a strong relationship with the sea in this area, known as Tangitū and consider that extension of the pipeline would negatively impact on this relationship. Allowing this consent variation to defer the construction of the pipeline extension (assuming approval to this under CD960330Wf is upheld) would recognise and provide for this relationship, culture and traditions with ancestral lands and water.

## 5.3 SECTION 7

Section 7 of the RMA lists matters that must be given particular regard to. The following section 7 matters are relevant to this Pan Pac application:

*(a) kaitiakitanga:*

*(aa) the ethic of stewardship:*

*(b) the efficient use and development of natural and physical resources:*

*(c) the maintenance and enhancement of amenity values:*

Particular regard must be given to the concerns expressed about the extension to the discharge pipe in considering the impact of the proposal on kaitiakitanga and the ethic of stewardship. The proposed consent variation responds to these concerns at least in the short term, until the consideration of alternatives confirms whether the pipeline extension is necessary to provide for sustainable management.

Of the other matters to be given particular regard under section 7, *'the efficient use and development of natural and physical resources'* is fundamental to Pan Pac's approach to resolving the colouration issue and breach of conditions. The Pan Pac Whirinaki Mill is a physical resource of regional significance. To better meet the requirements of the pulp market it upgraded its plant to a 'Bleached Chemi Thermo Mechanical Pulp' (BCTMP) process in 2012. At the same time a \$20M secondary biological treatment process was added to improve the effluent treatment system.

In terms of 7(b) then, to enable the Whirinaki Mill operations to continue providing a return on the significant investment made to establish the BCTMP, without breaching the effluent discharge permit, the proposed consent variation will enable an efficient use and development of a physical resource. This is particularly given that it would operate without adversely affecting the natural resources of the receiving environment in any way that is more than minor, other than the intermittent visual coloration effect.

In terms of section 7(c), the proposal will, as outlined above, affect the amenity values of Whirinaki residents and beach users, by allowing for the continuation of the dark red/brown effluent plume intermittently visible in the coastal waters. As discussed above a recent community consultation meeting indicated that those residents in attendance were prepared to accept such effects in the short term.

#### **5.4 SECTION 8**

Section 8 requires that: "In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Te Tiriti o Waitangi."

In the context of a resource consent application that has cultural significance to Maori, taking account of the principles of the Treaty would involve consultation with tangata whenua and acting in good faith. It is the basis of the ongoing consultation, as explained in section 2 and 3 above, as part of the pipeline extension application and more recently in the commencement of the MCA process, which has led to this application for a variation of consent conditions. Accordingly the temporary exception to condition 21 b) within both consent CD960330We and CD960330Wf would better take into account the principles of the Treaty, than declining consent and requiring the immediate construction of the effluent discharge pipeline extension (assuming approval to this is upheld).

#### **6. ASSESSMENT AGAINST DOCUMENTS IN S104(1)(b) RMA**

The relevant documents referenced in RMA s104(1)(b) to this application are: the New Zealand Coastal Policy Statement 2010, the Regional Policy Statement (as included in the



Hawke's Bay Regional Resource Management Plan) and the Hawke's Bay Regional Coastal Environment Plan.

Given that no change is proposed to the existing discharge, a comprehensive assessment against these documents is not necessary. Rather the following provides a summary of the provisions in these documents relevant to the effect of the visual coloration of the effluent discharge.

## **6.1 NEW ZEALAND COASTAL POLICY STATEMENT 2010**

Objective 2 and Policy 13 relate to preserving the natural character of the coastal environment. Policy 13(2) states that natural character may include such matters as '(a) *natural elements, processes and patterns*'. The current colour issue, when visible from the beach would therefore have an effect on natural character in terms of natural elements and patterns. As outlined above this application is seeking authorisation of such effects on a short term basis.

There are no other objectives or policies in the New Zealand Coastal Policy Statement 2010 that require consideration in terms of this application.

## **6.2 REGIONAL POLICY STATEMENT**

Section 104(1)(b)(v) requires regard to be given to a regional policy statement in the consideration of a resource consent application. The operative regional policy statement is contained within the Hawke's Bay Regional Resource Management Plan (operative 2006) (RRMP).

The RPS is structured with 3 overarching objectives in 'Chapter 2 – Key Regional Policy Statement Objectives'. Objective 1 is particularly relevant to this application in terms of its following reference in seeking to achieve sustainable management: "*...while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.*"

Chapter 3 of the RPS is 'Regionally Significant Issues, Objectives and Policies', section 3.2 of which is titled 'The Sustainable Management of Coastal Resources'. Contained in this section is objective 9 which refers to '*appropriate provision for economic development in the coastal environment, including the maintenance and enhancement of infrastructure and industry.*'

The assessment under section 4.2.1 of this application above, establishes the importance of Pan Pac's Whirinaki Mill to the regional economy and its significance as an employer. In terms of the RPS objectives and policies the Mill clearly contributes 'to the prosperity of the region' (obj 1). In terms of the other RPS objectives and policies referenced above, enabling the continuation of the existing discharge by temporarily exempting the discharge from the coloration condition provides for 'the maintenance of industry' in terms of Objective 9.

Another relevant objective within section 3.2 'The Sustainable Management of Coastal Resources' of the RPS, is Obj 4 regarding the preservation of the natural character of the coastal environment. This objective is a direct reflection of section 6(a) of the RMA.

Objective 2 and policy 13 of the NZCPS also have the same 'natural character' theme, and are addressed above in terms of the visual effect that this consent variation application is seeking to enable.

Paragraph 3.2.8 of the Explanation and Reasons states: "The natural character of the coast embraces ecological, physical, spiritual, cultural, intrinsic and aesthetic values. While it is a matter of national importance to preserve those values, the Act does not preclude appropriate use and development, particularly where natural character has already been compromised."

The subject site is not an area of particularly high natural character given the location of the Pan Pac Mill, the State Highway and the Whirinaki Beach Settlement. The sea (known as Tangitū) has spiritual and cultural values to ngā hapū with mana whenua and mana moana and it is the preference of such hapū, that this application is granted as an alternative to the immediate construction of the consented effluent pipeline extension (assuming approval for this is upheld under CD960330Wf).

Objective 7 of section 3.2 'The Sustainable Management of Coastal Resources' is: "*The promotion of the protection of coastal characteristics of special significance to iwi, including waahi tapu, tauranga waka, taonga raranga, mahinga kai and mahinga mataitai.*" From the pipeline extension consent process, it is clear that the subject area of the coast has significance to iwi and that a preference has been expressed to not extend the Pan Pac effluent pipeline.

### **6.3 REGIONAL COASTAL ENVIRONMENT PLAN**

The Hawke's Bay Regional Coastal Environment Plan (RCEP) is the planning instrument that sets out the rules for activities within the coastal marine area. Indeed it is rule 160 '*Discharges of contaminants into water in the Coastal Marine Area*' of this Plan that requires discretionary activity consent for coastal discharges, such as that authorised by CD960330We (and CD960330Wf, assuming approval to this is upheld).

The RCEP first sets out objectives and policies relating to Matters of National Importance (Part B). This includes objectives and policies under the headings of Natural Character, and Relationship of Maori and the Coast. These are all issues that have been discussed in relation to the higher order planning instruments above, therefore the following assessment is deliberately brief so as to avoid repetition.

With regard to Natural Character there are two issues of particular relevance. These being: the effects on the amenity of the existing Whirinaki Beach environment by caused by the intermittently visible colouration of the discharge plume; and cultural values applying to the coastal environment. These two issues are specifically required to be had regard to by Policy 2.9. As has been discussed above the visual effects are acknowledged and the purpose of this application is to avoid the effects on cultural values by the construction of the pipeline extension, at least in the short term until it is confirmed whether this extension is the best available option.

Objective 6.1 is: "The protection of the characteristics of the coastal environment of special spiritual, heritage, historical and cultural significance to tangata whenua." The evidence to



both the Council hearing and Environment Court on behalf of MTT suggest that rather than particular characteristics being of significance, it is the sea or Tangitū as a whole.

To paraphrase policies 6.1 – 6.5 they recognise tangata whenua as kaitiaki; provide for the protection of mahinga mataitai; to avoid, remedy or mitigate adverse effects on areas of significant cultural value; to actively involve tangata whenua in protecting natural resources of the coastal marine area that are of spiritual, historical and cultural significance. These are all matters that have been addressed above. In short the granting of this variation to consent conditions would better achieve these policies insofar as the continuation of the existing Pan Pac effluent discharge may be considered preferable in the short term for the reasons explained in section 2 and 3 above, to the construction of the effluent pipeline extension.

Objective 16.2 is: *Promote the avoidance, remediation or mitigation of the adverse effects of activities on mauri in the coastal marine area.* This was a point of contention with Pan Pac's pipeline extension application. Again a temporary exception from condition 21 b) would prevent the need to immediately construct the extension (assuming approval for this is upheld under CD960330Wf) and therefore avoid adverse effects on the mauri of Tangitū, at least in the short term.

## **7. NOTIFICATION**

Pursuant to section 95A(2)(b) of the Resource Management Act 1991, Pan Pac formally requests that this application be publicly notified. While there is an indication of support for deferring implementation of the pipeline extension (as would address the colouration issue) until the outcome of the MCA process is known (as explained in section 4.1.6 above), Pan Pac appreciates that the current situation does involve potentially significant visual effects during the periods described in section 4.2.2, and that there is likely to be a degree of broader public interest in this application given the circumstances. To ensure that all potentially interested parties can comment on the application through a public process, public notification is specifically requested accordingly.

## **8. CONCLUSION**

The above application sets out those matters required to be addressed by 'Form 10 Application for change or cancellation of resource consent condition' of the Resource Management (Forms, Fees and Procedure) Regulations 2003.

With regard to s107 of the RMA both subsections (2)(a) & (b) are complied with so consent is able to be granted to this application.

As set out in the assessment above, consent is sought to exempt the discharge from condition 21 b) of CD960330We and CD960330Wf until 31 December 2017 to authorise the existing intermittent breaches of this consent condition caused by the red / brown colouration of the effluent being visible on the sea surface at times. Pan Pac's understanding of cultural effects has progressed throughout the process surrounding the applications for the pipeline extensions. In that context, Pan Pac is now seeking to defer construction of an

extended effluent discharge pipe until the outcome of the alternatives assessment through the MCA process is known.

On this basis a short term tolerance of the colouration effects of the existing effluent discharge is sought. The above assessment demonstrates that consent can be granted after having regard to the relevant provisions of the RMA including Part 2, the New Zealand Coastal Policy Statement 2010, the Regional Policy Statement and the Regional Coastal Environment Plan.

**REVISED CONDITION 21 AS SOUGHT IN THIS  
APPLICATION**

**APPENDIX 1**



## Resource Consent Coastal Permit

In accordance with the Resource Management Act 1991, and subject to the attached conditions, the Hawke's Bay Regional Council (the Council) grants a resource consent for a discretionary activity to:

**Pan Pac Forest Products Limited**

Private Bag 6203

Napier

to discharge:

- i) effluent from the manufacture of wood pulp,
- ii) effluent from the manufacture of lumber, and
- iii) effluent from the treatment of water, and
- iv) leachate from a landfill (authorised by consent DP960203L)

after treatment, into the Coastal Marine Area, through an outfall pipe and diffuser, except for one three-day period in 2012 when the discharge will not be through a diffuser.

### LOCATION

<b>Address of site:</b>	1161 State Highway 2, Whirinaki
<b>Legal description (site of mill):</b>	Lot 1 DP 28162 and Lot 1 28357
<b>Legal description (site of power station):</b>	Lot 2 DP 23303
<b>Legal description (site of discharge):</b>	Sea bed
<b>Map reference:</b>	V20: 2845600 - 6195300

### DETAILS OF RESOURCE CONSENT

<b>Effluent to be discharged:</b>	Treated pulp mill effluent, saw mill effluent, water treatment plant effluent & landfill leachate.
<b>Maximum rate of discharge:</b>	15,000 m <sup>3</sup> per day
<b>Consent duration:</b>	Granted for a period expiring on 31 December 2017

**Malcolm Miller**  
**Manager Consents**  
RESOURCE MANAGEMENT GROUP  
Under authority delegated by Hawke's Bay Regional Council  
5<sup>th</sup> September 2013

*This consent was originally granted on 15 April 1998 and changed in accordance with s.127. See consent history, page 6.*

## CONDITIONS

1. The consent holder shall undertake all operations in accordance with any drawings, specifications, statements of intent and other information supplied as part of the application for this resource consent together with information supplied in the application to vary this consent dated November 2003 and information supplied to vary this consent dated September 2010, October 2010, March 2012, 19 April 2013 and 7 August 2013. Where a conflict arises between any conditions of this consent and the application, the conditions of this consent will prevail.
2. The volume discharged shall not exceed **15,000 m<sup>3</sup>** in any day.
3. The rate of discharge from the landfill shall not exceed **0.5** litres per second.
4. The average initial dilution over the boil achieved by the diffuser shall be not less than 100:1 in slack water, except for one three-day period in 2012, when the discharge will not be through a diffuser.
5. The suspended solids discharged on any day shall not exceed 10 oven-dried tonnes, and the 98<sup>th</sup> %ile of results shall be less than 6.5 oven dried tonnes during any calendar year.
6. The 50<sup>th</sup> %ile of the suspended solids discharged on any day shall not exceed 2.0 oven-dried tonnes during any calendar month.
7. The pH of the effluent shall be between 4.5 and 9.0.
8. The average temperature of the effluent over any day shall not exceed 70 degrees C.
9. The consent holder shall sample the effluent after treatment and analyse it for enterococci bacteria and E.coli during each month. The concentration of enterococci in any sample shall not exceed 27, 000 per 100 millilitres, nor shall the median concentration in any 5 consecutive samples exceed 5000 per 100 millilitres.
10. There shall be no statistically detectable difference in toxicity between a sample taken from uncontaminated near shore water (from a location to be approved by the Council's Manager Compliance), and treated effluent, when diluted 100 times with the uncontaminated water. Toxicity shall be tested in accordance with conditions 16 and 17.
11. The consent holder shall inspect the diffuser during each month at which time any blocked ports will be cleared and the number and location of blocked ports recorded. Provided that, if during any inspection, less than three ports are blocked, no inspection need occur during the following month only.
12. Before the 16<sup>th</sup> day of each month the consent holder shall report to the Council, the following information relating to the previous calendar month;
  - a) the volume of effluent discharged each day,
  - b) the maximum and minimum pH of the effluent for each day,
  - c) the average temperature of the effluent on each day, based on a continuous measurement,

- d) the weight of suspended solids discharged each day based on a 24 hour composite sample,
  - e) the weight of suspended solids discharged, calculated as a monthly median over the calendar month,
  - f) any report on diffuser inspections, including the number and location of any blocked ports.
  - g) the results of monitoring required to be undertaken in accordance with conditions 9, 10, 14, 16, 17, 19 and 20A and 20B of this consent.
13. The consent holder shall analyse the discharge from the landfill for pentachlorophenol (PCP) by an independently accredited laboratory immediately after rainfall three times during the term of the consent.
14. Prior to the commissioning of the new plant and treatment process, but no later than 2012, and then at 3 yearly intervals thereafter, the effect on the seabed in the vicinity of the outfall shall be investigated in such a manner that valid comparisons can be made with previous investigations reported to Council (in accordance with changes made during the 2007 proposal and subsequent survey titled "*Benthic Ecological Monitoring of the Pan Pac Forest Products Ocean Outfall 2007*" Cawthron Report number 1431, February 2008).
15. The consent holder shall, in conjunction with the Council, at least once annually convene a meeting, termed a "stakeholder's forum", to which stakeholders, or their representatives, shall be invited. A list of stakeholders being submitters or affected parties identified by the Council shall be maintained by the Council for this purpose.

The meetings shall be for purposes, including the following;

- to inform stakeholders of the outcomes of monitoring,
- to review the list of stakeholders referred to above,
- a means for stakeholders to provide feedback to the Council and the consent holder on consent compliance issues,
- a forum for stakeholders to discuss and convey views, both jointly and individually, about the adequacy of consent conditions and the need for a review of conditions.

A record of the meeting shall be kept by the consent holder and forwarded to the Council and stakeholders within 10 working days of the meeting.

16. The consent holder shall submit a toxicity testing programme no later than 6 months prior to the commissioning of the new plant and treatment process (as described in the information supplied with the application to vary this consent dated September and October 2010) for approval from the Council (Manager Compliance) which shall be designed to specifically address potential chronic and acute toxicity of the effluent to species from at least three trophic levels, and on species showing specific sensitivity to this type of discharge.

17. The consent holder shall undertake toxicity testing in accordance with condition 16 following the commissioning of the new plant and treatment process, as follows:
- a) Initial testing shall be undertaken during the first production operation producing in excess of 1000 Air Dried Tonnes of Bleached Chemical Thermo Mechanical Pulp (BCTMP) product. Effluent should be sampled as close to 48 hours as practical after the BCTMP operation commencing.
  - b) Testing should be undertaken at the beginning of the the first planned operation of the BCTMP plant for longer than 2 weeks. Sampling should be undertaken as close to 48 hours as practical after the BCTMP operation commencing, and again after 2 weeks of operation.
  - c) If results show toxicity to any of the test species, testing shall be repeated at the next opportunity.

If results are deemed non-toxic to all test species, toxicity testing can be reduced to six-monthly intervals thereafter with approval from the Council (Manager Compliance).

18. The discharge shall not cause any significant adverse effects on the benthic flora and fauna beyond the outfall as determined by the investigation required by condition 14.

19. The consent holder shall sample the treated effluent fortnightly and test for COD.

- 20A. The consent holder shall sample the treated effluent fortnightly and test for BOD. Over any 12 month period 95% of samples taken (but excluding samples taken during maintenance periods in accordance with Condition 20B) shall not exceed 454 (mg/l) total BOD. If the results of sampling show that BOD is within the limits specified after 12 months of monitoring, then monitoring for BOD can cease with approval from the Council (Manager Compliance).

- 20B. For up to 7 days, a maximum of three times each year, for maintenance purposes, effluent generated by the Thermo Mechanical Pulp (TMP) process may be treated by only the DAF plant prior to discharge. (See advice note I.) During these periods the effluent shall be sampled and tested for BOD. The limit for BOD in condition 20A shall not apply during periods when maintenance is undertaken on the secondary treatment plant. The maximum concentration of that sample shall not exceed 2,000 (mg/l) total BOD.

21. Except for during one three-day period in 2012 (~~when the discharge will not be through a diffuser~~), and as provided for in condition 21A below, the discharge of effluent shall not cause any of the following effects 150m from the midpoint of the diffuser:

- a) The production of any conspicuous oil or grease films, scums or foams, or floatable materials; or
- b) Any conspicuous change in the colour or visual clarity; or
- c) Any emission of objectionable odour; or
- d) Any significant adverse effects on aquatic life: or
- e) A change of the natural temperature of the receiving water by more than 3 degrees Celsius; or



- f) The dissolved oxygen concentration to be less than 80% of the saturation concentration: or
- g) Undesirable biological growths.

21A. The restriction against any conspicuous change in colour of the discharge (at or beyond 150m from the midpoint of the diffuser) in Condition 21 b) does not apply before 31 December 2017.

- 22. The consent holder shall install a diffuser to the discharge outfall as soon as practicable after the removal of the existing diffuser. The maximum length of time over which the discharge shall occur without a diffuser is one period of three consecutive days.
- 23. The consent holder shall notify the Council (Manager Compliance) at least two working days prior to any maintenance as described in condition 20B is undertaken.
- 24. The consent holder shall take all practicable measures to ensure that the period of time that effluent is discharged in accordance with condition 20B is as short as possible.
- 25. The consent holder shall notify the Council (Manager Compliance) within two working days after any maintenance described in condition 20B is completed advising the duration of the discharge.

#### **REVIEW OF CONSENT CONDITIONS BY THE COUNCIL**

The Council may review conditions of this consent by serving notice of its intention to do so pursuant to section 128 and section 129 of the Resource Management Act 1991.

**Times of service of notice of any review:** During the month of May, of any year.

- Purposes of review:
- 1. To ensure conditions are consistent with any rules in an operative regional coastal plan in respect of minimum standards of water quality, in accordance with s.128(b) of the Resource Management Act.
  - 2. To require the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment.
  - 3. To change monitoring requirements if the record of monitoring indicates that a change would be appropriate
  - 4. To review the need to set a limit on the total COD or E.coli in the treated effluent.

When determining whether the Council undertakes such a review it shall have regard for the views of individual stakeholders, particularly those views expressed at a "stakeholders forum" convened in accordance with condition 15.

#### **MONITORING NOTE**

Routine inspections of the site of this consent will be undertaken by Council officers at a frequency of no more than once every year. The costs of these routine inspections and any formal monitoring programme that may be established in consultation with the consent holder will be charged to the consent holder.

"Non routine" inspections will be made on other occasions if there is reason to believe (e.g.



following a complaint from the public, or monitoring) that the consent holder is in breach of the conditions of this consent. The cost of non-routine inspections will be charged to the consent holder in the event that non-compliance with conditions is determined, or if the

consent holder is deemed not to be fulfilling the obligations specified in section 17(1) of the Resource Management Act (RMA) 1991 shown below.

Section 17(1) of the RMA 1991 states;

*Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with*

- a) *any of sections 10, 10A, 10B, and 20A; or*
- b) *a national environmental standard, a rule, a resource consent, or a designation.*

### **REASONS FOR DECISION**

1. The activity will have limited actual or potential adverse effect on the environment.
2. The activity is not contrary to any relevant plans or policies.
3. The activity is consistent with the purpose and principles of the Resource Management Act 1991.

### **Advice Notes**

1. Any discharge of effluent undertaken during maintenance periods in accordance with condition 20B is to be from the TMP process only. The BCTMP process must be shut down at these times.

### CONSENT HISTORY

Consent No. (Version)	Date	Event	Relevant Rule Number	Plan
CD960330W	15/04/1998	Consent initially granted	11.4.1	Proposed Regional Coastal Plan
CD960330Wa	05/12/2003	s.127. change purpose of the consent, updated legal description of the site, change the 'details of the resource consent' and change condition 1.	11.4.1	Proposed Regional Coastal Plan
CD960330Wb	08/11/2010	s.127. change condition 1 to reflect new process and treatment, change conditions 9, 10 and 14 and add new conditions 16-21 to avoid, remedy or mitigate any effects of change.	153	Proposed Regional Coastal Plan
CD960330Wc	11/04/2012	S127 to allow for removal and replacement of the outfall diffuser.	-	Section 127 of RMA
CD960330Wd	23/04/2013	Conditions 1, 12 and 20A amended to allow maintenance to be undertaken on secondary treatment plant. Condition 20B, 23, 24 and 25 added.		Section 127 of RMA

CD960330We	05/09/2013	Condition 1 was varied for consistency purposes. Conditions 5 and 6 varied to allow effluent discharged to have a higher suspended solids concentration and condition 12 varied to be consistent with other changes.		Section 127 of RMA
------------	------------	--	--	--------------------

**APPENDIX 2**  
**INVITATION TO AND ATTENDANCE FORM FROM, THE**  
**COMMUNITY CONSULTATION MEETING –**  
**KING GEORGE HALL, BAY VIEW 9 AUGUST 2016**

9 August 2016 - Pan Pac / MTT/ Whirinaki Residents Meeting

	Name	Address	Email
1	Doug Duckor	Pan Pac	
2	KAZ SHIMMA	Pan Pac	
3	Pam Kohlis	163 Whirinaki Rd.	
4	Tony Clifton	PAN PAC.	
5	Dom & Hamish	33 North Shore Rd.	
6	DAN & JO	21 NORTH SHORE RD	
7	Mahdum Miller	NBRC	
8	Iain Maxwell	"	
9	Dave Emerg	190 Whirinaki Rd.	
10	S Marston	723 " "	
11	T McArdle	181 Whirinaki Rd	
12	S Birknell	1076 State highway 2.	carol-mclennan@hotmail.com
13	B Edwards	222 Whirinaki Rd	
14	K. Le Grest	161 Whirinaki Rd.	
15	Nigel Kyroch	129 Northdune Vd	
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			
39			

## INVITATION TO ALL WHIRINAKI RESIDENTS

### UPDATE ON SEA COLOURATION EFFECT FROM PAN PAC DISCHARGE

**TUESDAY 9 AUGUST 6.00 PM  
KING GEORGE HALL, BAY VIEW**

This is a joint invitation by Pan Pac Forest Products Ltd and the Maungaharuru-Tangitu Trust for you to attend an important meeting relating to all Whirinaki residents.

The purpose of the meeting will be to explain a possible settlement of the Trust's Environment Court appeal against Pan Pac's resource consent to extend the pipeline for its existing waste water discharge further out to sea.

As Pan Pac has previously advised through community updates, the company has been working through the Resource Management Act process to gain approval to extend the existing discharge point a further two kilometres offshore so that there is no sea colouration effect visible to Whirinaki residents. This would be achieved by increased dilution and the greater depth at which the discharge occurs from the extended pipeline.

Pan Pac lodged its application in August 2014, and following four pre-hearing meetings was granted resource consent for the extended pipeline after a hearing in August 2015.

The Trust appealed that consent because it is strongly opposed to the pipeline extension due to cultural effects and seeks a thorough investigation of alternatives to any pipeline extension.

The Environment Court appeal is set down for hearing on 22 August 2016. Pan Pac does not know when the Environment Court would release its decision on the appeal and the Resource Management Act process may not be completed before the end of the forthcoming summer 2016/2017. If not completed by then, the pipeline extension could not be constructed until the following summer 2017/2018, even assuming the Trust's appeal is refused by the Court.

As previously advised Pan Pac also needs to apply for a renewal of its discharge permit which expires in December 2017 and will need to undertake a full investigation of alternatives to a coastal discharge before that application is lodged (in June 2017). Regardless of the current Court appeal, Pan Pac will be formally starting this alternatives Investigation process this month with input from relevant iwi/hapu and other stakeholders including community representatives.

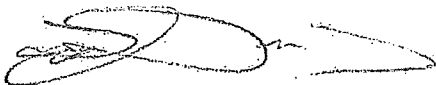
With all of these factors in mind, Pan Pac and the Trust have identified a possible settlement to the Environment Court Appeal which both parties wish to consult the Whirinaki residents about (and gauge community reaction to) before a final decision is made.

In summary, the settlement proposal is:

1. Construction of the pipeline extension would be deferred until after completion of the alternatives investigation assessment process i.e. no sooner than June 2017.
2. Construction of the pipeline extension post June 2017 could proceed to address the colouration issue at that point, provided:
  - The investigation of alternatives reveals that a continued coastal discharge is the best, including the most appropriate environmental, option; or
  - The pipeline extension is needed for legal compliance purposes while an alternative discharge option (such as land based disposal) is consented and constructed; and
3. Alongside this process, Pan Pac would make an application for a temporary dispensation from the HB Regional Council relating to its current resource consent condition requiring the effluent not to be conspicuous, while the parties work through the alternatives investigation and consenting process described above.
4. Should the investigation of alternatives reveal an alternative discharge option (such as land based disposal), a further temporary dispensation from the HB Regional Council relating to its current resource consent condition requiring the effluent not to be conspicuous, may be sought, whilst the alternative discharge option is constructed.
5. The Whirinaki Community will be briefed on the proposed settlement approach at a residents meeting (this invitation).

Note that this settlement proposal would represent a "compromise". It does not represent the ideal option from the perspective of any of the parties to the Court process for the pipeline extension.

Representatives from Pan Pac (as well as the Trust and the Council) will be present at the 9 August residents' meeting to provide a brief presentation and answer any questions.



Doug Ducker  
Managing Director  
Pan Pac Forest Products Limited



## **APPENDIX 3**

### **INFORMATION PRESENTED AT THE 9<sup>TH</sup> AUGUST 2016 COMMUNITY CONSULTATION MEETING**

# WHIRINAKI RESIDENTS MEETING

---

UPDATE ON SEA COLOURATION EFFECT FROM PAN PAC  
DISCHARGE

9 AUGUST 2016

# Introduction of the Parties

---

## **Chair**

- Stephen Daysh      Planning Consultant (EMS Limited)

## **Pan Pac Representatives**

- Doug Ducker      Managing Director
- Tony Clifford      General Manager Pulp
- Peter Allan      Manager - Technical and Environmental
- Mike Mohi      Cultural Advisor
- Kazuya Shimma      Deputy Managing Director

## **Maungaharuru-Tangitū Trust Representative**

- Shayne Walker      Kaiwhakahaere Matua - General Manager

## **HBRC Representatives**

- Iain Maxwell      Resource Management Group Manager
- Malcolm Miller      Consents Manager

# Purpose of Meeting

---

To update residents on the status of Pan Pac's resource consent applications to extend the pipeline as a means of dealing with the sea colouration issue.

To explain a possible appeal settlement pathway developed by Pan Pac and the Maungaharuru-Tangitū Trust (MTT).

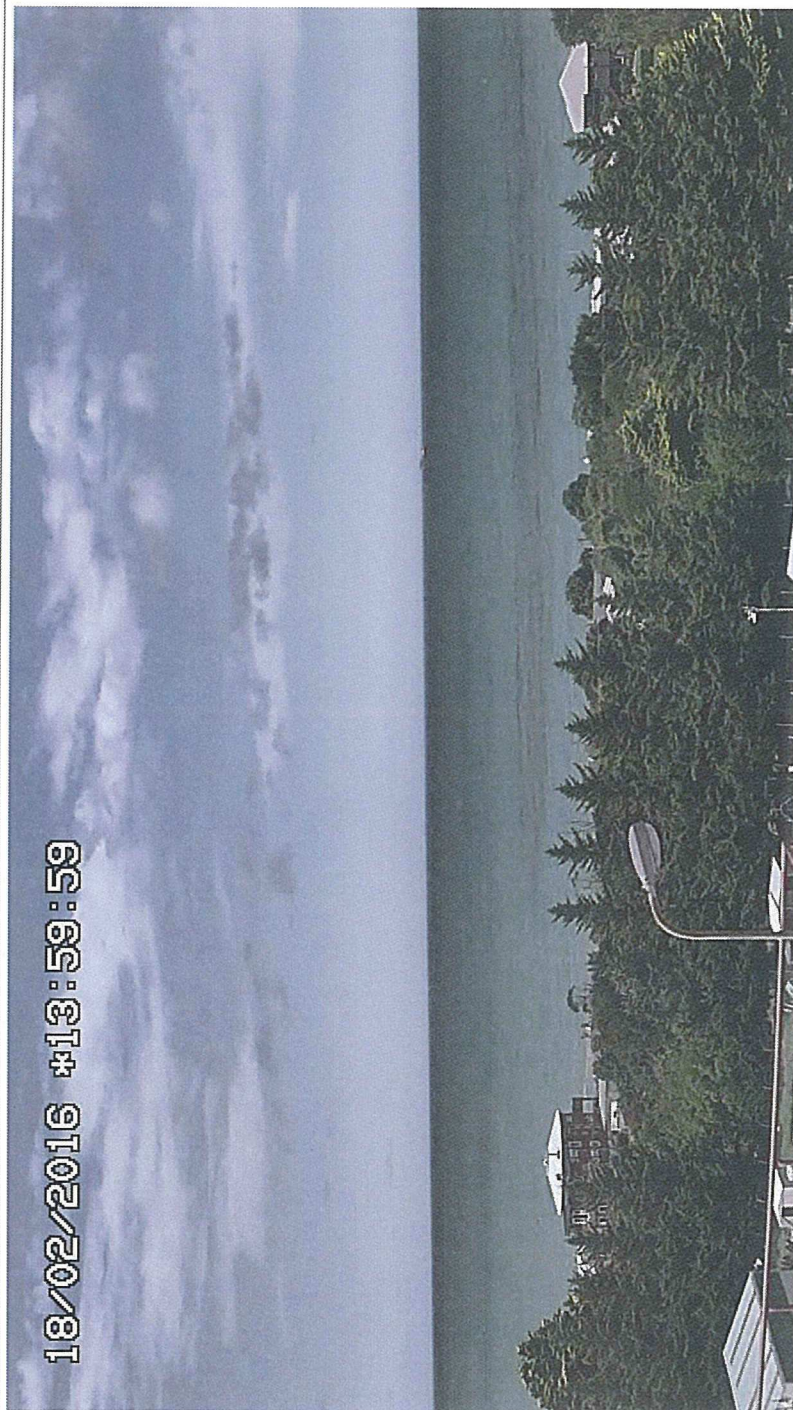
To gauge community reaction to the appeal settlement pathway before it is put in place.

Pan Pac, MTT and HBRC representatives will present some information.

Question and Answer session at end.



# Wastewater Discharge Appearance Problem



# Wastewater Discharge Appearance Problem

---

The wastewater discharge from Pan Pac is often unsightly.

The appearance causes Pan Pac to breach Resource Consent conditions.

The discharge complies with all other Resource Consent conditions, including toxicity.

The discharge is environmentally benign.



# Process Update

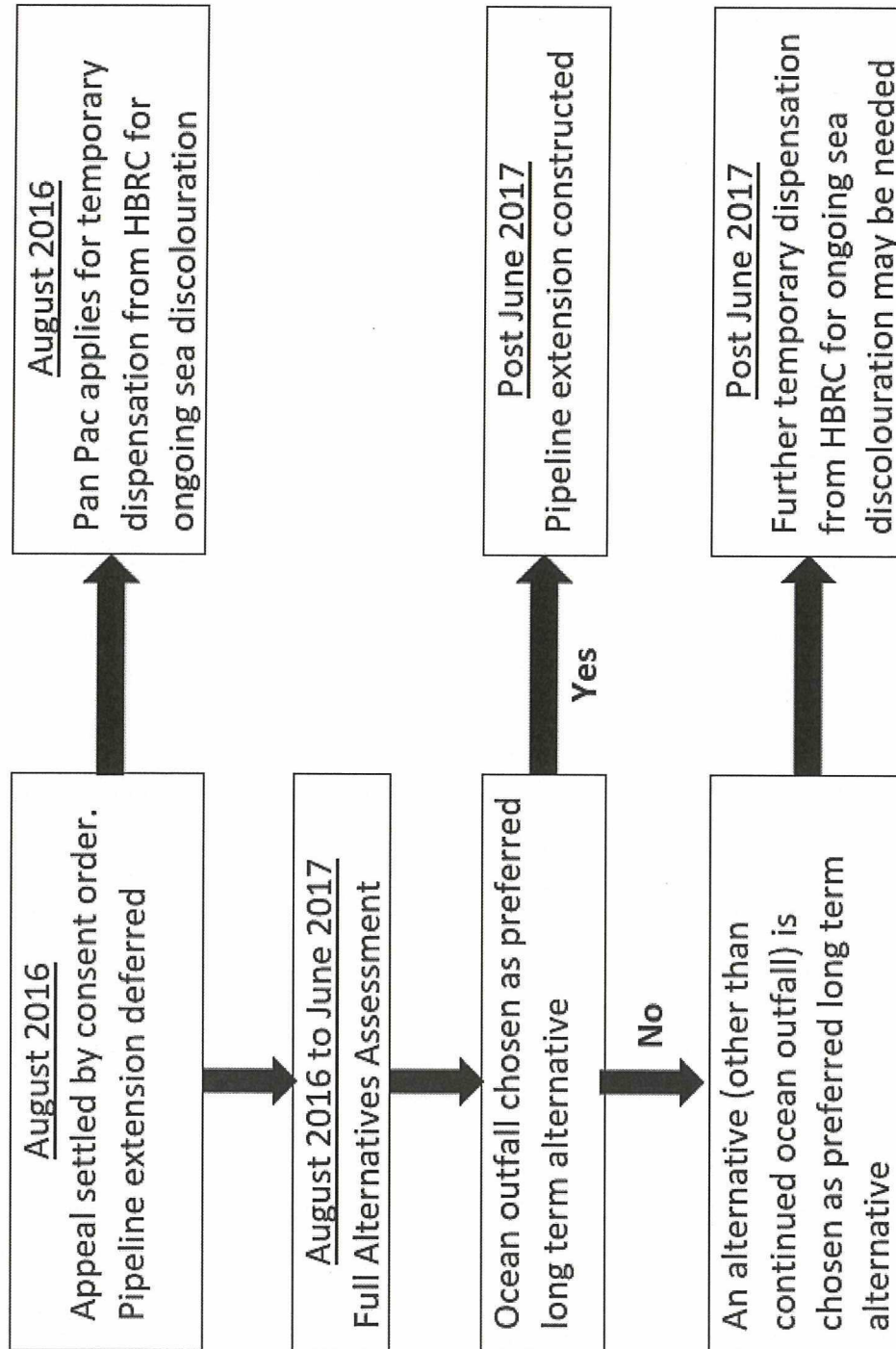
---

- |                    |  |
|--------------------|--|
| <b>2012</b>        | Pan Pac installed secondary biological treatment process which improved the quality of the wastewater but intensified its colour |
| <b>2012 - 2014</b> | Pan Pac investigate alternatives for remedying the colouration issue and selected a sea pipeline extension as the solution       |
| <b>Aug 2014</b>    | Applications lodged for sea pipeline extension   |
| <b>Sept 2015</b>   | HBRC grant sea pipeline extension consents   |
| <b>Oct 2015</b>    | MTT lodge appeal with the Environment Court  |
| <b>Dec 2015</b>    | Parties attended Environment Court Mediation - no resolution   |
| <b>Aug 2016</b>    | Environment Court hearing set  |
| <b>June 2017</b>   | Replacement Discharge Consents need to be lodged including full assessment of alternatives                                       |

**Pan Pac and MTT have been actively discussing a settlement pathway over the last few months**



Possible Settlement Pathway





# Pan Pac Objectives of Settlement

---

Company 100% committed to effectively resolving the sea colouration issue as soon as possible.

Considers the proposed settlement pathway provides more timing and process certainty.

Wishes to keep the local community, neighbours and Iwi informed on the sea colouration issue and also fully involved in the alternatives assessment leading up to lodging replacement resource consents in June 2017.

# Maungaharuru-Tangitū Trust



Background

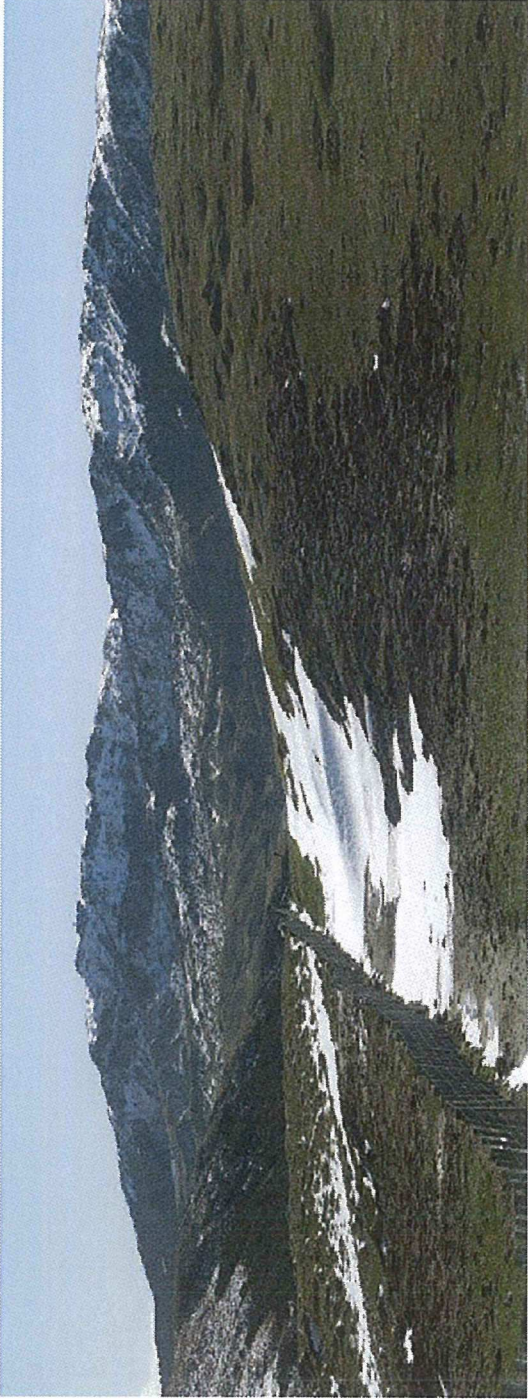
Appeal

Objectives of Settlement

Cultural Values and effects

Supporting full assessment of alternative options to a pipeline extension





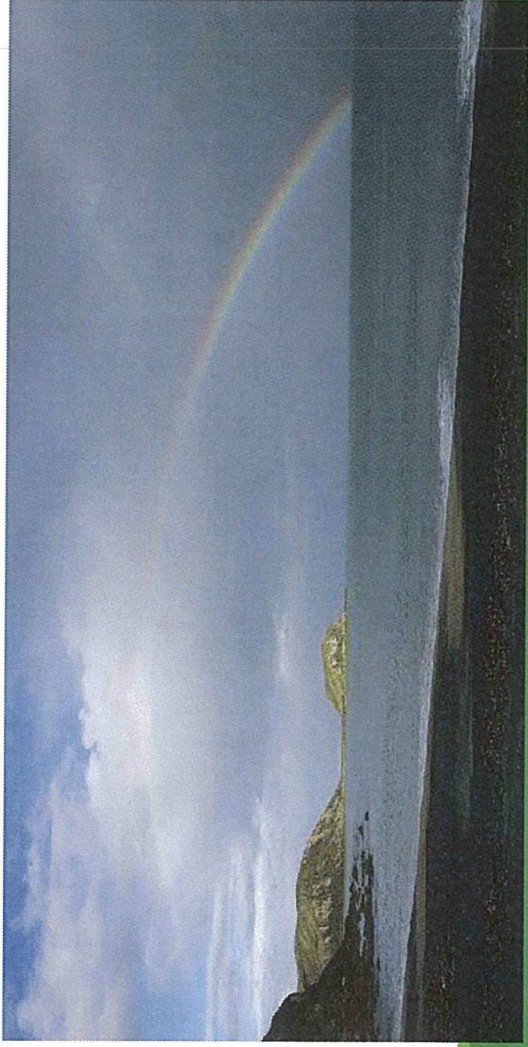
*Ka Tuwhera a*

*Maungaharuru, Ka Kati*

# Maungaharuru-Tangitū Trust

*Ka Tuwhera a Tangitū , Ka*

*Kati a Maungaharuru*

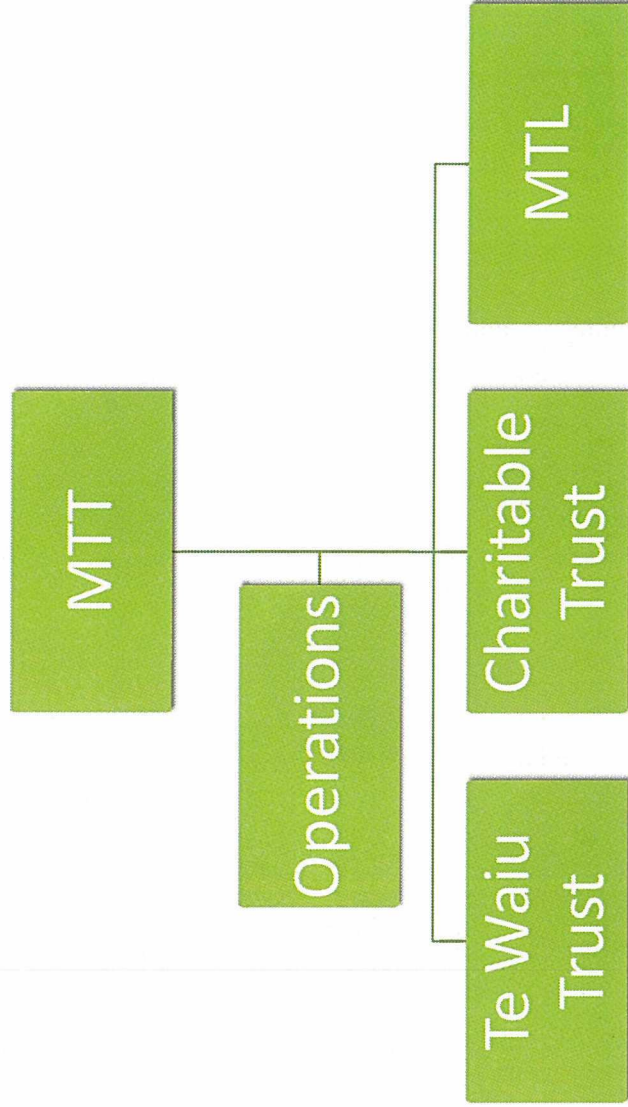






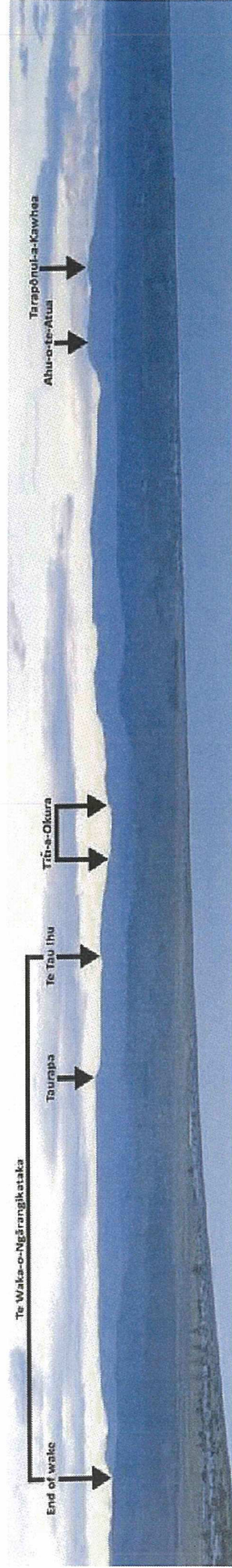
# Maungaharuru-Tangitū Trust

- Ngāti Marangatūhetaua, Ngāti Te Ruruku, Ngāti Kurumokihi, Ngāti Tauira, Ngāti Whakaari, Ngāti Tahu
- 20 Years Negotiation - May 2013



Financial Environmental **Marae** Tikanga **Te Reo** Education Employment Health **Social**

# Maungaharuru-Tangitū Trust



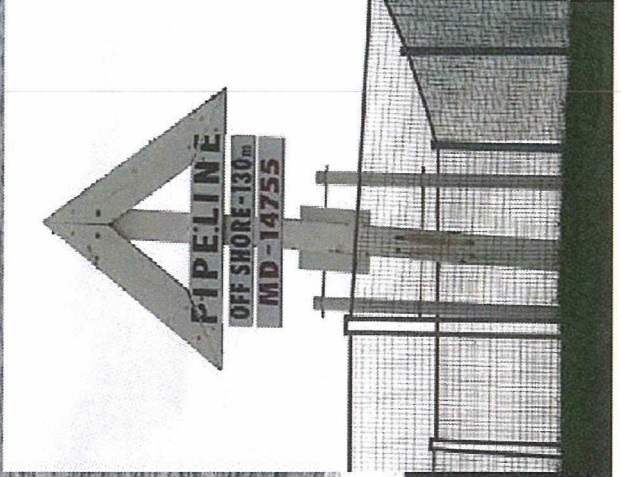
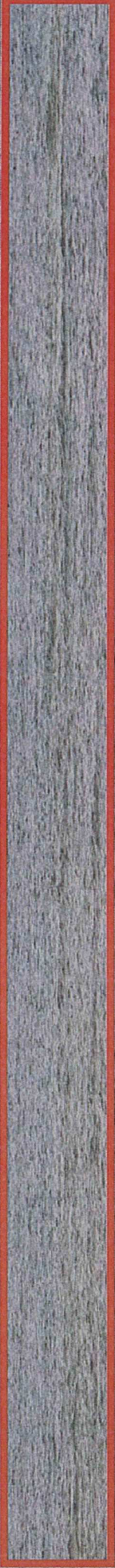
Outstanding Natural Landscapes

Wahi Taonga



# Maungaharuru-Tangitū Trust

< 15m Lt / Day





# Maungaharuru-Tangitū Trust



400m – 2.4k

450+ 1t blocks

Mauri

Alternative Options?

Court – 22 August

Whirinaki Residents & Committee?





# HBRC Objectives of Settlement

---

HBRC staff have been delegated the responsibility to negotiate a settlement to this appeal (to extend the outfall, relocate the discharge point, mitigate the discolouration) that generally upholds the Hearing Panel decision.

HBRC supports ongoing community liaison and investigation of settlement pathways.

HBRC recognise that there is a need to address the discolouration issue over the short term.

HBRC staff are available to provide advice around options, RMA implications and processes.

HBRC will process any change to provide for ongoing but temporary exceedance of discolouration if and when that is lodged.

HBRC will process the new/replacement discharge application(s) as required if lodged in 2017.



# Asking and Responding to Questions

---

Questions on process to date?

Questions on the 2017 discharge consent replacement process?

Questions on the possible settlement pathway

**I will take questions one at a time and will ask the Pan Pac / MTT / HBRC representatives to respond as appropriate**

# Feedback on Options

---

## The Options?

### **1. Pan Pac and MTT settle the appeal as presented**

This requires ongoing community tolerance of the sea discolouration for at least another year (and possibly longer if another discharge alternative is chosen as it will take time to consent, design and construct an alternative discharge system).

### **2. Go to Court**

Build pipeline extension if approved by the Environment Court however there is uncertainty over the appeal outcome and timing.