

Applicant:	Pan Pac Forest Products Limited
Application Numbers and Type: CD170262W	to discharge (i) treated process wastewater from the manufacture of wood pulp, (ii) treated process wastewater from the manufacture of lumber, (iii) treated process wastewater from the treatment of water, and (iv) leachate from a landfill after treatment, into the coastal marine area through an outfall pipe and diffuser (Discretionary Activity).
CL1702670	to occupy the coastal marine area with an outfall pipe and discharge diffuser (Discretionary Activity).
Notification Type:	Publicly Notified (at the request of the applicant)
Property Address:	Coastal Marine Area (CMA), offshore adjacent to 1161 State Highway 2, Whirinaki (see the application for further details).
Location of activity:	Hawke Bay, from the line of Mean High Water Springs to a point approximately 2,400 m offshore and perpendicular from the coast at Whirinaki and opposite the Pan Pac mill. The outfall pipe extends from the Pan Pac site, under SH 2 and Whirinaki Road where it then enters Hawke Bay and the CMA. The 400 m diffuser (from which the discharge is emitted) is located along the final 400 m of the outfall pipe.

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1. Outline of the Report

- 1.1 This report, required by Section 87F of the Resource Management Act (RMA), addresses the issues set out in sections 104 to 112 of the RMA, to the extent that they are relevant to these applications which were lodged with the Hawke’s Bay Regional Council. The activity to which the application relates is as follows:
- a) **Renewal** of a Coastal Discharge Permit to discharge (i) treated process wastewater from the manufacture of wood pulp, (ii) treated process wastewater from the manufacture of lumber, (iii) treated process wastewater from the treatment of water, and (iv) leachate from a landfill after treatment, into the coastal marine area through an outfall pipe and diffuser.
 - b) **Replacement of** a Coastal Occupation Permit to occupy the coastal marine area with an outfall pipe and discharge diffuser.
- 1.2 Both applications for resource consent are intended to be considered by the Environment Court on direct referral. This report is prepared pursuant to section 87F of the Resource Management Act which sets out the matters for the report to cover. All of these matters are discussed in this report. The report includes suggested draft conditions of consent, which could be utilised or adapted by the Court if the Court chooses to grant these applications for resource consent.
- 1.3 This report begins by describing the activities applied for, which is followed by a summary of the proposal. It then summarises the alternatives assessment, the consultation that has been undertaken and notification. Completing the report is a summary of the relevant resource management framework and discussion of the matters in sections 104 to 107.

2. Description of the Proposal

Background

- 2.1 The background to the applications is explained in detail in Parts A and B of the resource consent application¹. In summary, Pan Pac Forest Products Limited (“Pan Pac” or “the applicant”) operates a pulping and sawmilling business in Whirinaki, Hawke’s Bay. Pan Pac is wholly owned by Oji Green Resources, a fully owned subsidiary of Oji Holdings Limited. The company built the pulp and sawmilling operation including the existing outfall pipeline into the ocean prior to commencing operations in 1973.
- 2.2 The applications relate to the pulping division of the operation and the wastewater that is produced as a result of the pulping process. The applicant notes that the Pan Pac wastewater treatment process has undergone many improvements during the 44 years of operations at the site. Following an upgrade of the wastewater treatment system in 2012, there was an unexpected discolouration of the treated wastewater resulting in non-compliance with existing resource consent conditions. Pan Pac applied for a variation to the (then) current discharge consent in 2014 to address the visual appearance of the wastewater at the discharge point. The variation included an outfall extension and new 400 m diffuser.
- 2.3 As a result of the previous consent process mentioned above, Pan Pac holds two coastal permits in association with their outfall discharge into the Coastal Marine Area (CMA) in Hawke Bay (Consent CD160286W and CL160287O renumbered following Environment Court decision). The consents were granted by the Hawke’s Bay Regional Council following a hearing in August 2015. Following an appeal by Maungaharuru-Tangitu Trust, an Environment Court hearing was held in August 2016 and the decision previously made by Council was upheld by the Environment Court decision made on 10 February 2017. See Section 1.5 of the resource consent application for further information regarding the 2014 discharge consent variation.²
- 2.4 CD160286W expires on 31 December 2017 and although CL160287O does not expire until 31 December 2022, Pan Pac is seeking to replace this permit through this consenting

¹ Pan Pac Forest Products, Process Wastewater Discharge, Resource Consent Application & Assessment of Environmental Effects, 27 June 2017. Prepared by Mitchell Daysh (AEE)

² Pg. 4, AEE

process as well. The applicant has stated that the replacement occupation permit is sought to ensure alignment between the duration of rights to discharge into, and occupy, the CMA. A 35 year duration is sought for each permit.

Summary of Proposal

- 2.5 The application is for the renewal of an existing Coastal Discharge Permit expiring on 31 December 2017 and replacement of an existing Coastal Occupation Permit expiring on 31 December 2022.

Outfall Structure

- 2.6 Construction of the extension to the existing outfall structure is authorised by CL140317C and CL140330D. The purpose of these consents is to extend an existing outfall pipe to 2.31 km offshore (including a 400m long diffuser) on the sea bed and to undertake the associated disturbance of the seabed as may be restricted by s12(1) of the Resource Management Act (1991).³
- 2.7 Due to the timing of the outfall structure installation and the fact that the occupation of this structure is already authorised, the pipeline extension will be referred to as ‘the outfall structure’ in this report where possible, as opposed to ‘the proposed outfall structure’. However, some of the technical evidence and cited information will refer to the outfall structure as ‘proposed’.
- 2.8 The applicant has stated in Section 4.1 of the resource consent application that the construction of the extended outfall structure will be likely to commence in the summer of 2017/2018⁴.
- 2.9 Section 4.4 of the resource consent application describes the approved outfall construction in detail. In summary, the outfall construction is expected to take 3 months and the applicant considers that this will involve little environmental disturbance. This report does not address any effects relating to construction because that is already authorised under a separate permit which is not sought to be renewed or replaced under the current application.

³ Consent No. CL140317C and CL140330D

⁴ Pg. 27, AEE

- 2.10 As described in detail in Section 4 of the resource consent application, the approved extended outfall will be attached to the existing outfall structure and will comprise:
- a 2,000 m polyethylene pipe extending the structure to a total length of 2,400 m; and
 - a diffuser 400 m in length, with 100 small ports at an ocean depth ranging between 15.7 m and 16.6 m
- 2.11 The outfall pipeline and diffuser have a diameter of 630 mm and the pipeline is secured to the seabed using concrete blocks at 4 m centres along the outfall structure.
- 2.12 The concrete blocks are utilised to ensure the pipe is secured to the seabed against the forces of waves and currents. The pipe will have approximately 500 concrete blocks at 4 m spacing. The blocks are 1.5 m wide and 0.51 m deep, shaped as a large “U” section that wraps around the bottom half of the pipe. A steel strap over the top of the pipe holds the blocks in position. The eight pipe sections (250 m long each) will be secured to the seabed by fixing the concrete blocks to piles every 80 m.⁵
- 2.13 The location of the outfall structure for which a replacement resource consent is sought is shown by Figures 1 & 2 below.

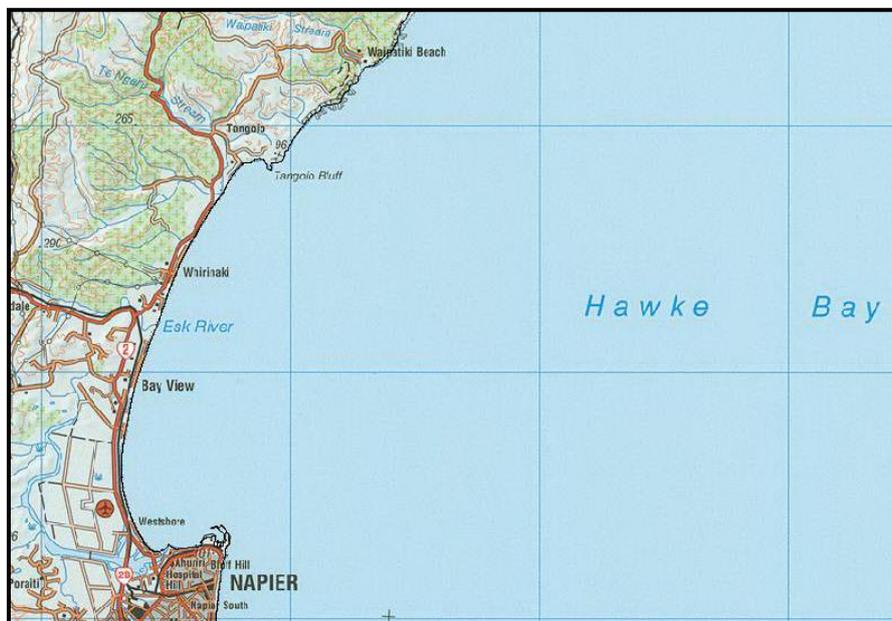


Figure 1: Site of activity - Whirinaki, Hawke Bay⁶

⁵ Pg. 28, AEE

⁶ 2015 Hearing Committee OR (Final) Pg. 5



Figure 2: Site Plan Showing Outfall Extent and Location⁷

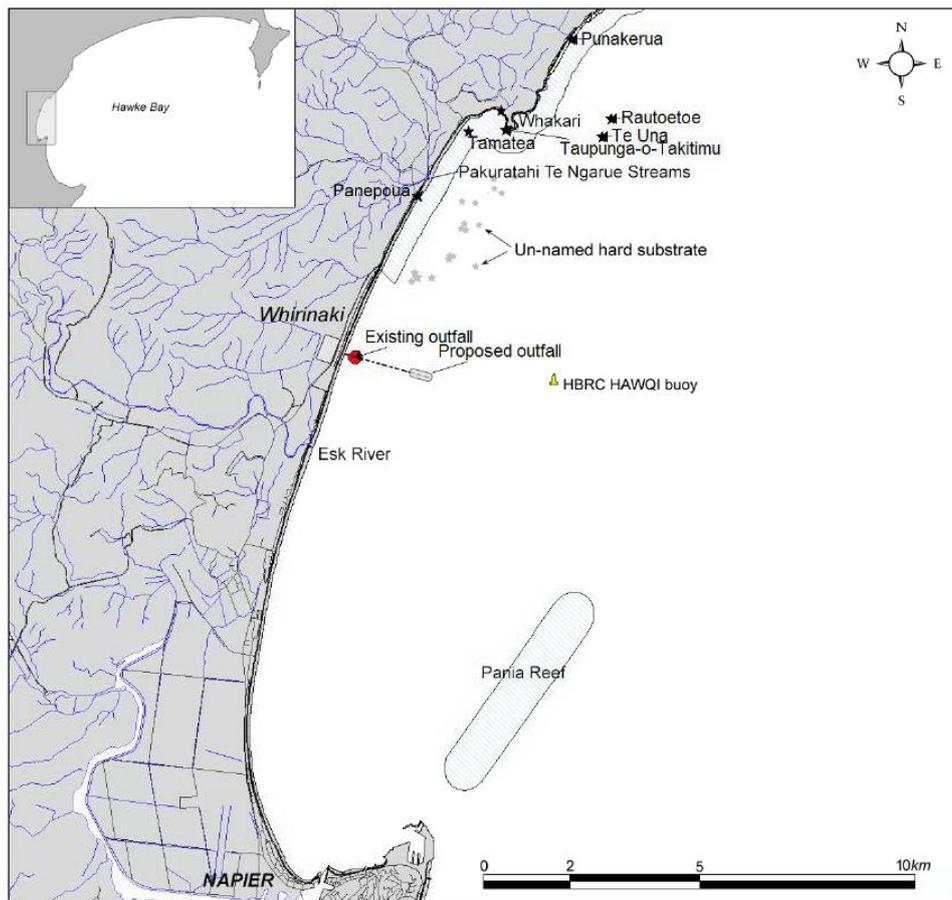


Figure 3: Overview map showing location of outfall⁸

⁷ CEE, Drawing number DR-140707-010 'Ocean Outfall Extension General Details'

⁸ Pg. 37, AEE

Wastewater Discharge

2.14 The wastewater treatment process and resulting discharge is discussed in detail in Sections 2.2 and 4.2 of the resource consent application, and I do not propose to repeat them as the applicant has sufficiently described the wastewater treatment process and resulting discharge. In summary:

- a) The applicant's pulp mill waste undergoes treatment in a biological secondary treatment process reducing organic solids and oxygen-demanding constituents to relatively low levels.
- b) It is important to note and emphasise that there are no pathogens derived from humans in the treated wastewater. That waste stream is dealt with separately by the applicant and is subsequently applied to land.
- c) The pulp mill discharge volume varies but is generally in the range of 6,000 m³/day to 12,000 m³/day with a current maximum consented daily volume of 15,000 m³/day. The applicant proposes a maximum 7 day discharge volume of 105,000 m³ as a condition of consent (7 x 15,000 = 105,000).

3. Compliance History and the Discolouration Issue

3.1 Section 2.3 of the application⁹ discusses Pan Pac's resource consent compliance history. This section of the application details that other than the issue of discolouration, there have been very few instances of non-compliance with the consent conditions.

3.2 Section 2.3.2 of the application explains the issue of enterococci monitoring in detail. In summary, there have been enterococci limit exceedances in the past (2015 and 2016). However, through its investigations into the issue, the applicant has identified excessive variation in results between different laboratories. At the time this application was lodged the applicant had commissioned a report in relation to this issue and was looking at why there is variation in the results of analysis between laboratories and alternative ways to monitor the discharge. Dr Kelly provided his comments on the issue via email¹⁰, and agreed that the on-going work being done by the applicant on this matter is considered appropriate. Condition 9 of the recommended consent conditions (if granted) relates to enterococci sampling. However, this condition may need to be updated to reflect the

⁹ Pg. 22, AEE

¹⁰ Email, RE: Pan Pac Condition 9, received 6/11/2017 from Shane Kelly, Coast and Catchment

findings of the report commissioned by the applicant and ensure that any subsequent condition is appropriate to monitor this component of the discharge.

- 3.3 The discolouration issue causing a conspicuous change in colour or clarity outside of the mixing zone has meant that the discharge permit has had an environmental compliance rating of “significant non-compliance”. This non-compliance is not acceptable and has been a matter of particular concern since the wastewater treatment upgrade that lead to the unforeseen issue.
- 3.4 The overall background to the applicant’s consent history including the 2014 discharge consent variation and the application made to vary the existing discharge in 2016¹¹ that was subsequently withdrawn following public notification show that the applicant has made an effort to comply with consent conditions. The 2016 application for a variation to the condition relating to discolouration was an attempt to achieve compliance while alternatives were investigated and discussed through the MCA process.
- 3.5 Full compliance with all resource consents is important and Council shares the views set out in paragraph 220¹² of the Court’s decision that a legally authorised effluent discharge is essential to allow the mill to operate.

4. Multi Criteria Assessment – Process Wastewater Options Review

- 4.1 In accordance with best practice, conditions set through the previous appeal process and Section 105 of the RMA, the applicant undertook an assessment of alternative options (Process Wastewater Options Review) for the wastewater treatment and disposal from the site. Details of the assessment are described in Section 5 of the resource consent application¹³ and the full report relating to the assessment is attached to the application as Appendix 3.
- 4.2 In summary, technical experts that were engaged by the applicant identified 42 potential options. These alternative options were shortlisted to five options and then refined further to the four potential options listed in Table 7 of the application and summarised below:

¹¹ CD960330Wg – withdrawn 13/07/17

¹² Maungaharuru-Tangitu Trust V Hawke’s Bay Regional Council [2016] NZEnvC 232.

¹³ Section 5, AEE

- Discharge to extended outfall
- Discharge to existing outfall (following membrane filtration) and irrigation to land
- Partial re-use of wastewater and irrigation to land
- Zero liquid discharge

4.3 The applicant describes in Section 5 of the application¹⁴ that each option was evaluated on a 'blank sheet of paper basis' as opposed to offering a greater weighting to option one because it was consented.

4.4 The outcome of the alternatives assessment (Process Wastewater Options Review) was that the highest scoring and recommended option was the discharge of wastewater from an extended outfall. That option is already authorised by the existing consents and therefore, the applicant proposes to renew the coastal discharge permit and replace the coastal occupation permit.

4.5 Furthermore, the Working Party were supportive of an initiative to offset any potential 'residual effects' of the discharge through the establishment of an Environmental Trust. The Environmental Trust concept is explained in Section 9 of the application and the concept is attached to the application as Appendix 3.¹⁵

4.6 In summary, Pan Pac has suggested establishing a trust fund to provide up to \$100,000 per annum for environmental enhancement purposes¹⁶. A key objective of the proposed trust is Objective 1 (Mauri of Te Moana) which seeks to focus on enhancement, restoration and mitigation of the Hawke Bay coastal and ocean environment. In my view, the proposed trust and Objective 1 of the trust concept could provide some relief to the concerns of a number of the submitters about the degraded coastal environment and lack of fish populations. I rely on the comments made by Dr Kelly in regard to this issue who explains that there are many potential reasons for variation in fish populations, including natural variability, fishing effects, and changes in habitat quality.¹⁷

¹⁴ Section 5, AEE

¹⁵ Pg. 64, AEE

¹⁶ Appendix 3, AEE

¹⁷ Pg. 3 Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017.

5. Consultation, Notification and Submissions

Consultation

5.1 The applicant confirms in Section 8 of its application that it undertook consultation with the community prior to lodgement of the resource consent application, as noted below.

5.2 The existing discharge consent includes the following condition requiring a 'stakeholder forum':

Condition 14 (This version of condition proposed by applicant. Note: wording changed in recommended conditions (if granted))

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. The list of identified stakeholders shall be approved by Council (Manager Resource Use). The meetings shall be for purposes, including the following;

- a) to inform stakeholders of the outcomes of monitoring,
- b) to review the list of stakeholders referred to above,
- c) a means for stakeholders to provide feedback to the Council and the consent holder on consent compliance issues,
- d) 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,
- e) to discuss the investigation and evaluation of alternatives to a coastal discharge of the wastewater authorised by this consent prior to any application being made to renew this consent,

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.

5.3 The recommended conditions (if granted) that are set out in Appendix 5 of this report include an addition to Condition 14. This addition is recommended to ensure that any cultural effects can be addressed on an ongoing basis.

- 5.4 As at the date of the consent application, a stakeholder meeting was planned for August 2017. The meeting was subsequently held and the minutes of the meeting were forwarded to Council as required by the condition above.
- 5.5 The Multi Criteria Assessment – Process Wastewater Options Review (Working Party) was another example of consultation undertaken by the applicant. This process is detailed above in Section 4 of this report. I attended the working party meetings as an observer and can confirm that the process wastewater options review followed the agreed terms of reference¹⁸. I consider that the process provided an effective forum to consult with stakeholders and the local community in regard to the activities and the applicant invested significant resources into the process to educate, inform and seek the views of various individuals and parties.
- 5.6 The applicant has stated the following in relation to consultation with tangata whenua:¹⁹
“Pan Pac has consulted with Tangata Whenua parties associated with the business and Whirinaki area on an ongoing basis, through both one on one meetings and as part of the MCA process. Six Tangata Whenua parties were invited to participate in the MCA process as members of the Working Party. Representatives of three of these groups attended meetings during the process. This included a meeting with the iwi representatives on the Working Party to discuss cultural values associated with the shortlisted options and canvass options for people to provide cultural values advice. Pan Pac also corresponded with three of the Tangata Whenua parties regarding the potential for a site visit for the Working Party to view and discuss significant cultural sites in the general area although this initiative was not taken up. Condition 30 of the current discharge consent also requires that Pan Pac engage with iwi groups through the formation of a Mana Whenua Kaitiaki Liaison Group (MWKLG). Pan Pac invited the same six parties to participate in this group in February 2017 (Appendix 7). There was no response to this invitation from any party, and therefore MWKLG was not established. Pan Pac also contacted the same parties in April 2017 (Appendix 7) requesting another meeting to discuss cultural impact assessment and the offset mitigation concept being considered by Pan Pac for this application. Pan Pac met with two of the parties in late April 2017.”

¹⁸ Appendix 3, AEE

¹⁹ Pg 62, AEE

5.7 In summary, I believe the applicant has made an effort to consult with the community and key stakeholders regarding the proposal and I am aware that the applicant also sought the views of the relevant applicants for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 prior to lodging the applications.

Notification

5.8 The applicant requested public notification of the applications. The applicant stated that this was to ensure that all potentially interested parties can comment on the application through a public process.²⁰ The applications were therefore publicly notified on 25 July 2017 with the submission period closing 20 working days later on 22 August 2017 at 5.00pm.

5.9 In accordance with Hawke's Bay Regional Council protocol, the HBRC Maori Committee were contacted via Joyce-Anne Raihania (Senior Policy & Strategic Advisor-Maori, HBRC) to determine which committee members should be directly notified of the proposal.

Submissions

5.10 Thirteen submissions were received. Two submissions support the proposal, two are neutral and the remaining nine submissions oppose the proposal. A summary of submissions is attached at Appendix 1.

6. Resource Management Framework

Activity Status

6.1 The renewal of the coastal discharge permit is a discretionary activity in accordance with Rule 160 of the RCEP and the replacement of the coastal occupation permit is also a discretionary activity under Rule 117 of the RCEP. In accordance with section 104B, the applications can be granted or refused and if granted, conditions can be imposed under section 108.

²⁰ Pg 66, AEE

Statutory Considerations

- 6.2 In deciding upon these applications, the RMA contains a number of provisions that require consideration. These include sections 104, 104B²¹, 105 and 107.

Section 104

- 6.3 Any actual and potential effects on the environment are discussed in Section 7 of this report as required by 104(1)(a).
- 6.4 With regard to Section 104 (2A), the applicant's investment in the pulp mill is significant. As discussed in Section 9.2 of the application, the investment exceeds 170 million²². However, when the alternative options for treatment and discharge were considered, the applicant sought legal advice and undertook the assessment on a 'blank sheet of paper basis'.²³
- 6.5 With regard to Section 104(1)(b), I agree with the applicant that the relevant planning instruments are the New Zealand Coastal Policy Statement (**NZCPS**), the Regional Policy Statement (**RPS**) and the Regional Coastal Environment Plan (**RCEP**).²⁴ I discuss these below in section 8 of this report after considering effects on the environment.
- 6.6 At the time of application there were no planning documents prepared in accordance with 104 (2B).

7. Assessment of Environmental Effects

- 7.1 I note that the applicant has prepared its AEE on the basis that the effects of both the discharge and the extended pipeline (although not its construction) are relevant,²⁵ and I agree with this approach. The construction of the extended pipeline is already consented and the present application does not relate to that activity.

²¹ The application may be granted or refused and conditions may be imposed under 108

²² Pg. 65, AEE

²³ Pg. 15, AEE

²⁴ Pg 42, AEE

²⁵ Section 6.1, AEE

- 7.2 For the purpose of assessing the effects of the proposed activity, I have treated the environment as being that which would exist if the activity ceased. This environment would not necessarily be pristine, because it would still be subject to any residual effects of the activities that had been carried out in the past, including Pan Pac's discharge that has occurred for over 40 years.
- 7.3 Despite the challenges inherent in defining the state of that environment with precision, I agree with Pan Pac's assessment that whichever way effects are assessed, the relevant effects are minor.²⁶ Furthermore, the discharge via the extended outfall structure is expected to remedy previous non-compliance issues.
- 7.4 The suite of permits required to authorise the discharge from the extended outfall and the occupation of the outfall structure on the seabed are already in place as a result of the previous Environment Court process and as previously explained, the applicant proposes to undertake the pipeline extension works in the 2017/2018 Summer with a discharge from the extended outfall expected soon after these works are complete. The expected duration of the required and authorised works is approximately 3 months. Because the coastal discharge permit expires on 31 December 2017, the applicant will be relying on s.124 rights until a new discharge permit is granted (if granted). The applicant does not need to rely on s.124 rights for the coastal occupation component of the activities, because the coastal occupation permit is current and does not expire until 31 December 2022. I consider that it is reasonable and logical to align the consent durations of the coastal permits sought (renewal of discharge permit and replacement of occupation permit), and that the alignment of these permits is best dealt with through this consenting process because the activities are not mutually exclusive.
- 7.5 In regard to cultural effects, I am not an expert in tikanga Maori or in Maori culture and values. I respect that it is for those who hold mana whenua and mana moana to identify and express these matters. However, I have made an effort to gain an understanding of these issues and the potential cultural effects of the activities. The alternatives assessment 'Working Group' process provided a forum for people to share their own values and knowledge with the group and I consider that this resulted in all participants and observers gaining a better understanding of cultural values.

²⁶ Section 6.1, AEE

7.6 In regard to the other key environmental issues including potential effects on marine life, benthic ecology and fish stocks, I rely on the information, evidence and assessments that have been made by experts in these fields. It is important to note that the information by the applicant in relation to assessing these effects has been traversed, reviewed and suitably tested at a number of consenting steps to date. Furthermore, Council engaged Dr Shane Kelly, an expert in coastal ecology to review the AEE associated with this resource consent application. Dr Kelly's comments are summarised below and the memo that was provided to Council in relation to the review (dated 27 October 2017) is attached as Appendix 3.

Effects on Marine Life, Benthic Ecology and Fish Stocks

7.7 The applicant has provided sufficient details regarding the potential effects on marine life, benthic ecology and fish stocks. A comprehensive summary of Dr Chris Hickey's 'review of toxicity of Pan Pac Forest Products Ltd Wastewater Discharge to Hawke Bay' is included in Section 6 of the application and for reference, the full report is attached to the application as Appendix 4²⁷. In regard to concerns raised by submitters about the toxicity of the discharge, the following conclusions (below) made by Dr Hickey are important to note.

The Pan Pac Wastewater treatment system is highly efficient at reducing the concentration of the toxic components of the wastewater.

*The Pan Pac wastewater discharge does not produce chemical contaminants which would bioaccumulate in shellfish or fish tissue because of exposure to the trace organics present in the wastewater discharge. As such, there is no risk of chemical contaminant exposure through the food chain for human consumers, nor of cumulative impact more generally within the food chain which could adversely affect filter feeding shellfish or predatory fish species present in the marine receiving environment.*²⁸

7.8 Dr Kelly reviewed the findings of Dr Hickey's report and accepts the findings and conclusions which demonstrate that water around the outfall is unlikely to be toxic if current levels of treatment are maintained and consented dilution requirements are adhered to.

7.9 The applicant has also undertaken an assessment of the potential effects of the activities on the benthic ecology and fisheries resources in the vicinity of the outfall structure and diffuser. This work was undertaken by Shade Smith from Triplefin Environmental

²⁷ Pg 33, AEE

²⁸ Section 6.2, AEE

Consulting. A summary of Mr Smith's findings is included in Section 6 of the application and for reference, the full report is attached to the application as Appendix 5²⁹.

7.10 Mr Smith stated in his report that a study was undertaken based on monitoring results from the inshore 'short' outfall showing the following:

The discharge from the extended pipeline is likely to result in a minor increase in fine organic material at sites closest to the outfall structure and an increase in disturbance tolerant species at those sites. However, the zone of influence is expected to be smaller than at the existing outfall site due to the increased dispersion of the plume with increased depth, and ability of the area to assimilate any effects over a wider area compared to the existing outfall.

The key marine ecological receptor in the vicinity of the discharge from the extended outfall, the Tangoio reef complex, will not be significantly adversely affected given the lack of apparent effects in soft sediment communities among sites outside of the zone of reasonable mixing around the existing outfall, increased distance of the discharge from the reef by virtue of the extended outfall, and improved dilution with the more efficient diffuser.

The discharge of wastewater from the extended ocean outfall will not significantly adversely affect the benthic environment or fisheries resources surrounding the extended outfall site.³⁰

7.11 Dr Kelly reviewed the findings of Mr Smith's report and agrees with the overall conclusions of the assessment in relation to the potential benthic effects. Dr Kelly noted that long-term monitoring of the inshore outfall informed the conclusions made by Mr Smith and considers that the monitoring programme was robust and was carried out and reported to a high standard. Dr Kelly added that the findings of that programme should largely be transferrable to the offshore outfall.³¹

7.12 At the request of Council, Dr Kelly addressed the issue raised by submitters in relation to the overall reduction in fish populations. Dr Kelly states the following on the matter:

Despite this, submitters have highlighted observations of fewer "boil-ups" of bait fish and dwindling fish catches around Whirinaki Beach, and linked them to the discharge. There are many potential reasons for variation in fish populations, including natural variability, fishing effects, and

²⁹ Pg 34 & Appendix 5, AEE

³⁰ Section 6.3, Pg. 34, AEE

³¹ Pg. 3 Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017

*changes in habitat quality. The potential for observational bias also needs to be considered. Given that, and the lack of quantitative information that would support the submitters concerns, I am unable to determine the validity and significance of the matters raised in these submissions. Based on the above, I therefore conclude that overall effects on fisheries resources are likely to be insignificant.*³²

7.13 I rely on Dr Kelly's comments and his view that there are many potential reasons for variation in fish populations and that the potential effects on fish populations as a result of the activities are likely to be insignificant.

7.14 In conclusion, Dr Kelly accepts that the impacts of the consented offshore outfall are likely to be localised and of a relatively minor nature,³³ and I rely on his views.

Cultural Effects

7.15 The applicant has its own cultural advisor, Mr Mike Mohi and the effects on cultural values is an issue that the applicant has put considerable effort into understanding. Furthermore, I consider that the applicant has made a considerable effort to initiate and facilitate discussions on the matter and has undertaken meaningful consultation in relation to the resource consent applications.

7.16 The applicant commissioned a Cultural Impact Assessment (CIA) as an outcome of a prehearing meeting relating to the 2014 application for the pipeline extension. Although it must be noted that the CIA was not produced specifically for this application, all background information previously gathered supports the conclusion that tangata whenua, hapu and iwi have strong and significant cultural relationships with Hawke Bay.

7.17 These relationships and the issue of cultural effects is one of the main points of contention surrounding the application for resource consents and is therefore a key factor in the current consenting process and the direct referral of this application to the Environment Court.

7.18 I consider the application (Section 6.4 in particular) provides a good basis of information for the Court to consider when deliberating on its decision and of course, the views and

³² Pg. 3 Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017

³³ Pg. 4 Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017

concerns of submitters are important to consider. Therefore, a summary of the matters raised in submissions is attached in Appendix 1.

7.19 As detailed previously, many of the submitters have raised concerns about the effects the proposal will have on cultural values.

7.20 I reiterate the fact that I am not an expert in tikanga Maori or in Maori culture and values. I respect that it is for those who hold mana whenua and mana moana to identify and express these matters.

7.21 The potential effect on cultural values is a significant point of contention and is raised by a number of opposing submitters who hold strong cultural values and connections in relation to the receiving environment, Hawke Bay. A full summary of submissions is attached to this report as Appendix 1. I personally contacted the submitters via email to inform them of the direct referral process and offered further clarification over the phone where necessary. Below I have summarised and grouped the potential cultural effects discussed in the submissions:

- Effects on the relationships that tangata whenua, hapu and iwi have with the sea (Tangitu and Tangaroa).
- Cumulative impact on the Mauri of the coastal environment.
- Potentially harmful to the health of the moana, an environment that Maori have reliance on.
- Compromising mahinga kai and the ability to gather kaimoana.

7.22 The importance of the relationships between the submitters³⁴ and the coastal environment is not disputed. Maungaharuru-Tangitu Trust, Ngati Parau Hapu and the tangata whenua, hapu and iwi represented by the submissions received from Bonny Hatami and Ngahiwi Tomoana all refer to the relationship they have with the sea, moana, Tangitu and Tangaroa. The importance of these relationships has been explained and heard in detail and contributes to the background of this application that has been discussed previously in this report and is also emphasised by Maungaharuru-Tangitu Trust in its submission.

³⁴ **Note:** Other individuals and parties in Hawke's Bay have an important relationship(s) with the coastal environment. The list provided by this paragraph relates to the submitters of this consent application.

7.23 Paragraph 103 of the Court's decision³⁵ quotes the evidence of Mr GPN Reti to describe the relationship between the Trust's members and Tangitu:

Tangitu is our ancestor our kaitiaki of the moana, Tangitu is vital to our hapu. Tangitu is part of our whenua, she provides us with cultural, spiritual and physical sustenance and shapes a part of our identity as a hapu. Tangitu is acknowledged and recognised through our hapu in our greetings, whakatauki and waiata and is reflected in all aspects of our marae (carvings, tukutuku panels etc.). Tangitu is where we go to feed our people given the right season and weather. Tangitu takes care of us so we in turn need to care for Tangitu.

7.24 I emphasise that Maungaharuru-Tangitu Trust is not the only hapu, group or person with an important relationship with the sea and coastal environment. The submissions summary in Appendix 1 indicate the matters raised by all submitters, and I have considered these views.

7.25 It is important that the relationship between tangata whenua, hapu and iwi and the sea (Tangitu & Tangaroa) is recognised and provided for in the determination of this application. Kaitiaki and responsibilities of kaitiakitanga are both important concepts to consider and there is an obligation to take into account the principles of the Treaty of Waitangi.

7.26 The depleted fishery and degradation of the coastal environment was another area of particular concern that was expressed by submitters. A depleted fishery is described by many³⁶ as a failure to fulfil kaitiaki obligations³⁷. The information included in the Cultural Impact Assessment (CIA)³⁸, presented previously to the Environment Court³⁹ and detailed by the submitters emphasises the importance of a fishery in enabling important concepts and cultural values such as mahinga kai and manaakitanga. For reference, these terms are explained in Section 6.4 of the application.⁴⁰

7.27 In considering the potential cultural effects, I rely on the scientific evidence available to me that leads me to the conclusion detailed below. I also rely on broader matters like the

³⁵ Maungaharuru-Tangitu Trust V Hawke's Bay Regional Council [2016] NZEnvC 232.

³⁶ Submitters to this application and evidence presented to the Environment Court

³⁷ Pg. 38, AEE

³⁸ Giblin Group Limited. Pan Pac Forest Products Limited, Outflow Pipe Resource Consent Application Mauri / Cultural Impact Assessment. 2015.

³⁹ Maungaharuru-Tangitu Trust V Hawke's Bay Regional Council (ENV-2015-WLG-00052).

⁴⁰ Section 6.4, AEE

consultation undertaken, the environmental trust and its proposed objectives and the conclusions previously reached by the Environment Court. Evidence that supports my conclusion on this matter includes information provided by the applicant for previous consent applications, evidence provided to the Environment Court and the full application provided to Council⁴¹ to which this report relates.

7.28 Based on the information and evidence provided and the review of this by Dr Kelly, I consider that the bio-physical effects of the activities are not significant and are no more than minor. My consideration of the bio-physical effects relies on the expertise of Dr Kelly and his conclusion that the impacts are likely to be localised and of a relatively minor nature⁴² and that there are many potential reasons for variations in fish populations⁴³. Therefore, to the extent that cultural concerns are underpinned by bio-physical effects that can be considered minor (at worst), I consider that the potential cultural effects are minor. This is consistent with the Environment Court's conclusions⁴⁴. The Court stated in paragraph 87 of its decision⁴⁵ that they were satisfied that there will be no bio-physical effects that would be more than minor and that the scientific evidence did not support the view that the Pan Pac discharge contributes to the deterioration in the quality of Tangitu. The Court's overall conclusion relating to the effects on mauri and the relationship of tangata whenua with their ancestral waters was informed by the fact⁴⁶ that the discharge has no detectable impact on Tangitu as a fishery, bio-physical effects would be no more than minor and the existing environment is not pristine and is affected by a range of influences other than the Pan Pac discharge.⁴⁷

7.29 The applicant has shown an ongoing commitment to improving its relationships with tangata whenua, hapu and iwi and I consider that the recommended consent conditions provide a logical forum for this to take place. Furthermore, the proposal may provide an opportunity for potential enhancement of the coastal environment which may in turn reduce the effects on the environment and the effects on mauri, Tangitu and Tangaroa.

⁴¹ AEE

⁴² Pg. 4 Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017

⁴³ Pg. 3 Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017

⁴⁴ Maungaharuru-Tangitu Trust V Hawke's Bay Regional Council (ENV-2015-WLG-00052).

⁴⁵ Maungaharuru-Tangitu Trust V Hawke's Bay Regional Council (ENV-2015-WLG-00052).

⁴⁶ Paragraph 144, Maungaharuru-Tangitu Trust V Hawke's Bay Regional Council (ENV-2015-WLG-00052).

⁴⁷ Paragraph 149, Maungaharuru-Tangitu Trust V Hawke's Bay Regional Council (ENV-2015-WLG-00052).

Amenity Effects

- 7.30 The proposal is not expected to have any significant effects on amenity values⁴⁸. Discolouration issues as a result of the wastewater treatment system upgrade and the discharge from the short outfall and insufficient dilution are known to affect the amenity of the Whirinaki residents. The proposal is to replace the discharge permit authorising the discharge from the extended pipeline. The proposal is expected to maintain amenity values and ensure that amenity values are not degraded.
- 7.31 The proposed 500:1 dilution is expected to ensure that the colour change of the diluted wastewater with the background sea condition would be less than 10 points difference on the Munsell scale, and hence deemed inconspicuous by MfE guidelines (1994).⁴⁹ I rely on the NIWA modelling and scientific evidence relating to dilution that has been provided by the applicant as supporting evidence. The recommended consent conditions (Conditions 2 & 20) require this dilution to be achieved and prevent the discharge from being conspicuous outside the mixing zone. Therefore, I consider that any potential effects on amenity values will be insignificant and managed appropriately by the recommended conditions of consent.

Positive Effects

- 7.32 Section 8 of this report provides a summary of the economic and social benefits associated with the applicants operations. The applicant describes these benefits in detail in Section 6.5 of the application.⁵⁰

Conclusion

- 7.33 In conclusion, I do not consider that the potential effects on the environment are of such significance to prevent the replacement coastal discharge permit and renewal of the coastal occupation permit from being granted. Furthermore, a set of recommended conditions are included that provide for monitoring the performance of the activity to demonstrate compliance and also provide an effective safety net for identifying and responding to any unexpected adverse environmental effects. I consider that these conditions respond appropriately to the matters raised by submitters about the implications of the applicant's activities on the environment.

⁴⁸ **amenity values** means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes, RMA (1991)

⁴⁹ Pg. 21, AEE

⁵⁰ Pg. 40, AEE

8. Relevant Statutory Documents

New Zealand Coastal Policy Statement (2010)

- 8.1 The New Zealand Coastal Policy Statement (NZCPS) took effect in December 2010, after the decisions on the RCEP were notified (July 2008) and the RPS (contained within the RRMP, operative 2006). Therefore, it cannot be assumed that the RCEP gives full effect to the NZCPS, hence I have considered the relevant NZCPS provisions below.
- 8.2 The following objectives and policies of the NZCPS (set out below) are of relevance to the applications.

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;
- protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and
- maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.

- 8.3 Biophysical effects are described by the applicant as being no more than minor and Dr Shane Kelly describes any impacts of the consented offshore outfall as localised and of a relatively minor nature⁵¹. Section 6.3 and the report by Mr Shade Smith (Appendix 5) explain that there are no significant natural ecosystems present in the immediate vicinity of the activities. Based on the evidence presented in the application and the conclusions of the review undertaken by Dr Kelly, I consider that the proposal will not have more than minor effects on coastal water quality.

Objective 3

⁵¹ Pg.4, Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017.

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

8.4 I consider that Section 6.4 of the application, the recommended consent conditions and the ongoing commitment made by the applicant to recognise important cultural values via an environmental trust sufficiently provides for these matters, for reasons discussed earlier in my report. Specifically, the matters raised in Objective 3 were recognised through the MCA assessment of alternatives and the applicant has shown an ongoing commitment to recognising and providing for the relationships mentioned above through the proposed conditions of consent (If granted). Condition 29 and condition 14 both provide an opportunity for tangata whenua involvement in the management of the coastal environment and the applicant recognises the special value of the coastal environment to tangata whenua.

Objective 6

8.5 To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;
- some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;
- functionally some uses and developments can only be located on the coast or in the coastal marine area;
- the coastal environment contains renewable energy resources of significant value;
- the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;

- the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;
- the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and
- historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.

8.6 The applicant's operation depends on the use of the coastal environment. Without the use of the coastal environment the applicant could not, to the same extent, enable people and the community to provide for their social and economic wellbeing. The applicant makes a considerable contribution to the social and economic wellbeing of the community. The applicant supports and provides community initiatives including the Mountain Bike Park located near and around the Whirinaki Mill. The information provided in the application, the thorough MCA process and ongoing commitments set out in the recommended conditions of consent shows that the applicant is well aware of the importance of natural and physical resources to this region and the community. On balance, I consider that the activities are aligned with this objective.

8.7 The contribution made by the applicant to the regional economy in turn helps to provide for the social and economic wellbeing of the community through employment and the support for community initiatives. These positive contributions to the community and the region are best described by the applicant and Section 6.5 of the application describes these benefits in detail⁵². I consider that these economic and social benefits are significant and the applicant's operations are important to the Hawke's Bay Region.

Policy 2: The Treaty of Waitangi, tangata whenua and Maori

- 8.8 In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:
- a. recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;
 - b. involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with

⁵² Pg. 40, AEE

- tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- c. with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori¹ in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
 - d. provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;
 - e. take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
 - i. where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
 - ii. consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
 - f. provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
 - i. bringing cultural understanding to monitoring of natural resources;
 - ii. providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;
 - iii. having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non commercial Māori customary fishing;
 - g. in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
 - i. recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and
 - ii. provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

8.9 Similar to my comment above in regard to Objective 3, I consider that Section 6.4 of the application, the recommended consent conditions and the ongoing commitment made by the applicant to recognise important cultural values sufficiently provides for these matters.

Policy 6: Activities in the Coastal Environment

8.10 In relation to the coastal marine area:

- a. recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;
- b. recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;
- c. recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;
- d. recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there; and
- e. promote the efficient use of occupied space, including by:
 - i. requiring that structures be made available for public or multiple use wherever reasonable and practicable;
 - ii. requiring the removal of any abandoned or redundant structure that has no heritage, amenity or reuse value; and
 - iii. considering whether consent conditions should be applied to ensure that space occupied for an activity is used for that purpose effectively and without unreasonable delay.

8.11 The application relates to the CMA and therefore only 6(2) is relevant to the activities. My comments above in relation to Objective 6 are relevant to this policy also. Furthermore, the activities will not affect recreation qualities and values. However, for navigational safety and health and safety reasons there is a need for an exclusion zone around the activities as previously discussed.

Policy 11: Indigenous Biological Diversity

8.12 To protect indigenous biological diversity in the coastal environment:

- a. avoid adverse effects of activities on:
 - I. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
 - II. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
 - III. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
 - IV. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
 - V. areas containing nationally significant examples of indigenous community types; and
 - VI. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and

- b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:
 - I. areas of predominantly indigenous vegetation in the coastal environment;
 - II. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
 - III. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
 - IV. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
 - V. habitats, including areas and routes, important to migratory species; and
 - VI. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

8.13 The applicant has addressed and considered this policy in significant detail⁵³. I agree with the applicant and the review by Dr Kelly which confirms that the activities are consistent with this policy.

⁵³ Pg. 51, AEE

Policy 23: Discharge of Contaminants

- 8.14 In managing discharges to water in the coastal environment, have particular regard to:
- a. the sensitivity of the receiving environment;
 - b. the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and
 - c. the capacity of the receiving environment to assimilate the contaminants; and:
 - d. avoid significant adverse effects on ecosystems and habitats after reasonable mixing;
 - e. use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and
 - f. minimise adverse effects on the life-supporting capacity of water within a mixing zone.
- 8.15 23(1) is relevant and in my opinion the application and supporting documentation have addressed these matters appropriately. The mixing zone proposed has been determined with support of scientific evidence and I consider that it is best to take a precautionary approach as opposed to reducing the mixing zone. The mixing zone of 150 m⁵⁴ is consistent with the exclusion zone (area where kaimoana should not be gathered). The mixing zone and exclusion zone is based on science that incorporates dilution factors and toxicity testing that has been commissioned and undertaken by the applicant. Some submitters believe that the exclusion/mixing zone should be as small as possible. I consider that a precautionary approach should be taken as proposed. However, further monitoring and toxicity testing that is to be undertaken may relax the exclusion zone (for gathering of kaimoana). I note that there are other matters for consideration such as health and safety and protection of the diffuser structure (from the anchoring of boats and trawling of commercial fishers).

Regional Policy Statement

- 8.16 The Regional Policy Statement (RPS) is contained within chapters 1-4 of the Hawke's Bay Regional Resource Management Plan (RRMP).

⁵⁴ Radius from the diffuser and buoys

8.17 Chapter 2 contains three overarching objectives and of these, Objective one is relevant to the proposal. Objective 1 states:

“to achieve the integrated sustainable management of the natural and physical resources of the Hawke's Bay region, while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.”⁵⁵

8.18 Chapter 3.2 is titled 'The Sustainable Management of Coastal Resources' and the following objectives of this chapter are considered relevant to the proposal:

- a) Objective 4 'Promotion of the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development'.
- b) Objective 5 'The maintenance and where practicable and in the public interest, the enhancement of public access to and along the coast'.
- c) Objective 6 'The management of coastal water quality to achieve appropriate standards, taking into account spatial variations in existing water quality, actual and potential public uses, and the sensitivity of the receiving environment'.
- d) Objective 7 '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'.
- e) Objective 8 'Appropriate provision for economic development within the coastal environment, including the maintenance and enhancement of infrastructure, network utilities, industry and commerce, and aquaculture'.
- f) Objective 9 'Enabling safe and efficient navigation.'

8.19 Paragraph 3.2.2 through to 3.2.14 of the RRMP provide the explanation and reasons⁵⁶ for these objectives.

8.20 Further guidance on HBRC plan structure is also provided by Chapter 3.2 paragraph 16 of the RRMP, which explains that the Hawke's Bay Regional Coastal Environment Plan is a combined Plan, covering the landward and seaward parts of the coastal environment and incorporating the regional coastal plan that HBRC is required to prepare. It sets out in some detail objectives, policies and methods including rules which are the basis for management of the coastal environment. Thus the Regional Policy Statement does not repeat or elaborate on the above objectives, and the Regional Coastal Environment Plan should be referred to for further detail. In short, the RPS does not contain policies that relate to the objectives mentioned above, as these are in the RCEP.

⁵⁵ Chapter 2, RRMP, operative 2006. Re-published as at 1 January 2014

⁵⁶ Pg.29 & 30 RRMP, operative 2006. Re-published as at 1 January 2014

- 8.21 In my opinion, the proposal is consistent with the objectives of the RPS that relate to the sustainable management of coastal resources. A number of these objectives are similar to the higher order NZCPS provisions. Section 7 of this report contains the relevant information to support my conclusion. I also agree with the applicant's assessment⁵⁷ of the proposal against this section of the RPS.
- 8.22 Chapter 3.13 of the RPS relates to the 'Maintenance and enhancement of Physical Infrastructure'. The following objectives detailed in this section are considered relevant:
- Objective 32 'The ongoing operation, maintenance and development of physical infrastructure that supports the economic, social and/or cultural wellbeing of the region's people and communities and provides for their health and safety'.
- Objective 33 'Recognition that some infrastructure which is regionally significant has specific locational requirements.'
- 8.23 Section 3.13 and its accompanying objectives relate to infrastructure and are of relevance to the proposal. The infrastructure of the company is considerable and as clarified by the RPS⁵⁸, the infrastructure can be regarded as part of the region's physical infrastructure. The contribution to the regional economy made by the company is well documented in the application and is also summarised by this report in earlier sections.
- 8.24 Chapter 3.14 is titled 'Recognition of Matters of Significance to Iwi/Hapu'. I agree with the applicant that this section focuses on policy development. The section does however include the following objective that is relevant to the proposal:
- Objective 34 'To recognise tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions'.
- 8.25 The proposal recognises tikanga Maori values and their contribution to sustainable development and the overall role of kaitiaki. I consider that overall, the proposal recognises and provides for these matters.

⁵⁷ Pg. 53 & 54, AEE

⁵⁸ Paragraph 3.13.8 RRMP, operative 2006. Re-published as at 1 January 2014

8.26 Section 3.14 relates to consultation with Maori and the following objectives and policies are considered relevant to the proposal:

Objective 35 'To consult with Maori in a manner that creates effective resource management outcomes.'

Policy 59 states that consultation with tangata whenua should be undertaken in a manner that acknowledges Maori values, with the fundamental approach in consultation being "kanohi ki te kanohi" (face to face) or personal contact. Other matters necessary to be exercised are:

- consideration of a consent application not yet finally decided upon
- listening to what others have to say
- considering their responses
- deciding what will be done
- appropriate timing.

Policy 62 recommends the following approach for consultation with tangata whenua:

- Where the issue is at a macro, region-wide level consultation be with iwi.
- Where the issue is localised, yet non site-specific, consultation be with hapu.
- Where the issue is site-specific consultation be with whanau.

8.27 The applicant has had regard to the objective and policies relating to consultation with Maori. The consultation undertaken in relation to the activities is summarised in Section 5 & 6 of this report and is also explained in detail by the applicant.⁵⁹

8.28 The applicant has provided an analysis of the provisions of the RPS. The relevant objectives and policies are also discussed above. For the reasons set out in the applicant's evaluation and in my discussion above, I am comfortable that the proposed activities are consistent with the relevant RPS provisions.

Regional Coastal Environment Plan (RCEP)

8.29 The Regional Coastal Environment Plan objectives and policies that are relevant to the applications are as follows.

8.30 Part B of the RCEP is relevant to the applications. Chapters 2-7 set out significant resource management issues in relation to matters of national importance stated in s6 of the RMA.

⁵⁹ AEE

These chapters also set out the specific objectives, policies and anticipated environmental results for addressing these matters of national importance in Hawke's Bay's coastal environment context.⁶⁰

- 8.31 Chapter 2 relates to the preservation of the natural character of the coastal environment, and the protection of the coastal environment from inappropriate subdivision, use and development. I consider that policies 2.1, 2.2, 2.4, 2.7 and 2.9 are all relevant to the proposal and I believe that sufficient regard has been given to these provisions. Specifically, this is addressed by Section 7 of this report.
- 8.32 Chapter 3 relates to the protection of outstanding natural features and landscapes. The explanation and reasons that relate to this section detail what can define an outstanding natural feature or landscape. The definition includes 'its value to tangata whenua'⁶¹. I consider that the activities are consistent with this chapter of the RCEP.
- 8.33 Chapter 4 relates to indigenous species and habitats. The activities will not have more than minor adverse effects on the fishery or any ecosystem. I rely on the views of Dr Kelly who has provided a review of the information and science relating to this issue.
- 8.34 Chapter 5 relates to public access along the coast. This issue has been addressed in the discussion of higher order planning instruments and except for the limited exclusion zone around the outfall, the activities will not affect public access along the coast. The potential for activities to occupy the coastal environment is recognised by the RCEP.
- 8.35 Chapter 6 is titled 'Relationship of Maori and the coast'. Objective 6.1 aims to protect the characteristics of the coastal environment of special spiritual, heritage, historical and cultural significance to tangata whenua. I consider that policies 6.1 through to 6.9 are of relevance to the applications and I consider regard has been given to the issue outlined by chapter 6 of the RCEP. The issue (issue 6.1⁶²) is addressed in both the application and also earlier in this s.87F report.

⁶⁰ Pg. 8 RCEP Operative 8 November 2014

⁶¹ Pg. 13 RCEP Operative 8 November 2014

⁶² Pg.19 RCEP Operative 8 November 2014

- 8.36 Chapter 7 relates to the protection of historic heritage. Policy 7.4 relates specifically to the protection of historic heritage that is of significance to hapu. This is addressed under cultural effects in Section 7 of this report.
- 8.37 Part D of the RCEP is relevant to the activities as it relates to the use and development of the CMA.
- 8.38 Chapter 16 sets out the objectives and policies relating to the discharge of contaminants into the CMA. Objectives 16.1 through to 16.4 are all relevant.
- 8.39 Table 16.1 sets out the environmental guidelines for the discharge of contaminants in the CMA. The applicant has addressed each of the applicable guidelines⁶³ and I consider that the discharge is consistent with policy 16.1.
- 8.40 The applicant has presented scientific information to address the matters set out by chapter 16. I consider that the activities are consistent with the requirements of this chapter of the RCEP.
- 8.41 Chapter 18 is relevant to the coastal occupation permit as it relates to structures and occupation of space in the CMA.
- 8.42 The objectives aim to ensure that the adverse effects structures and their subsequent occupation are avoided, remedied or mitigated.
- 8.43 The environmental guidelines required to ensure the above are set out by Table 18-1⁶⁴. The proposal is consistent with Policy 18.1 specifically and I consider that the activities are consistent with the requirements of this chapter of the RCEP.

Statutory Acknowledgements

- 8.44 Statutory acknowledgements are appended to both the RRMP and the RCEP.

⁶³ Section 7.7.2, AEE

⁶⁴ Table 18-1: Environmental Guidelines – Structures and occupation of space in CMA. RCEP Operative 8 November 2014

- 8.45 A statutory acknowledgement is a formal recognition made by the Crown of a claimant group's particular cultural, spiritual, historical and traditional association with a specific area (statutory area) owned by the Crown.
- 8.46 Two statutory acknowledgements have been made in the Hawke's Bay Region. One of these is for Ngati Pahauwera and the other is for Maungaharuru-Tangitu. The Maungaharuru-Tangitu statutory acknowledgement includes an area known as the 'Hapu Coastal Marine Area' and also outlines other important areas and features along the coast and within the CMA
- 8.47 The location of the proposed activity is within the Maungaharuru-Tangitu statutory area, and Maungaharuru-Tangitu Trust was served with notice of the application as noted in Appendix 4 of this report.

9. Other Statutory Matters

Section 105

- 9.1 With regard to Section 105(1)(a) the nature of the discharge will not change from the currently consented discharge. The receiving environment is Hawke Bay and the monitoring of the discharge from the current out fall and the projections of effects at the proposed outfall indicate that the ecological impacts will be very localised and of a relatively minor nature. The impact of the outfall pipe will be minor as concluded by Mr Smith⁶⁵ and supported by Dr Kelly.⁶⁶
- 9.2 Regarding Sections 105(1)(b) and 105(1)(c), I have had regard to the applicant's reasons for the proposed choice and I have had regard to the review of alternatives discussed by this report and detailed in Section 5 of the application.

Section 107

- 9.3 In regard to Section 107, I agree with the applicant's assessment as set out in the application.⁶⁷ Specifically, I agree with the concluding statement made by the applicant on page 44⁶⁸ of the application and consider that the additional matters required to be considered in regard to these sections do not pose any constraints to the grant of the

⁶⁵ Pg. 49, AEE

⁶⁶ Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017.

⁶⁷ Pages 43 – 44, AEE

⁶⁸ Pg. 44, AEE

renewed discharge permit. Section 107(1)(d) and 107(1)(g) are of particular importance to the proposal. Section 7 of this report addresses these matters.

10. Part 2 of the RMA

10.1 The assessments detailed in this report are subject to the matters contained in Part 2 of the RMA, which contains sections 5, 6, 7 and 8. I am aware of case law⁶⁹ which states that unless particular exceptions apply, there is no need (or ability) to refer back to Part 2 of the RMA when determining a resource consent application under section 104 of the Act, as the plan will have been developed in accordance with Part 2 and can be assumed to have given substance to Part 2. However, for the sake of completeness in case any exceptions are found to apply, and because I am aware that the Davidson decision is currently under appeal, I have briefly set out my analysis of the relevant parts of Part 2 for this proposal below.

Section 5 Purpose of the RMA

10.2 Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. Sustainable management means 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 wellbeing, 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.

10.3 I consider that the applications are consistent with the purpose of the RMA. In regard to social and economic well-being, the applicant makes a considerable contribution to the regional economy and provides employment opportunities for more than 700 people. The pulp and timber plant processes a large amount of the timber grown in the region. Furthermore, the applicant has continued to invest in wastewater system improvements and upgrades to improve the quality of the discharge produced by the pulp mill⁷⁰.

⁶⁹ *RJ Davidson Family Trust v Marlborough District Council* [2017] NZCA 194).

⁷⁰ Section 2.2.3, AEE

- 10.4 The applicant has offered a further economic commitment to the Hawke's Bay region by offering an Environmental Trust concept. The trust concept would provide up to \$100,000 per annum to enhance the coastal environment.
- 10.5 In regard to the MCA process and alternatives assessment, the applicant undertook a thorough alternatives assessment and although the options considered had varying capital requirements, the applicant has opted for the renewal and replacement of the existing resource consents for a number of reasons over and above affordability.
- 10.6 With regard to environmental safeguards and the need to avoid, remedy, or mitigate any adverse environmental effects, I consider that the proposal is consistent with sustainable management of the coastal environment and the matters detailed in section 5(1) and section 5(2)(a)-(c).
- 10.7 A number of submitters have stated that the proposal will have effects on the cultural wellbeing of the communities and the people that they represent. This issue has been well traversed by the applicant who has made a considerable effort to gain an understanding of the effects its operation and proposal may be having. The applicant proposes an Environmental Trust concept to ensure that any residual effects can be remedied or mitigated. Based on the information provided by the applicant, my involvement in the MCA process (as an observer) and noting the proposed Trust concept, I consider that the proposal provides for the cultural wellbeing of the community in general. I also note that the applicant requested public notification of the applications to ensure the community was able to share any concerns and contribute further to the resource consent process. Therefore, there may be further opportunities for the applicant to address the concerns of submitters and the matter of cultural wellbeing is likely to become clearer once submitters have been heard. I note that a number of submitters have flagged the desire to participate in 'pre-hearing' (or similar) discussions.
- 10.8 On balance, I consider that the proposal is consistent with sustainable management.

Section 6 Matters of national importance

In achieving the purpose of the Act, all persons exercising functions and powers under it,

in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the matters of national importance set out in section 6. Of relevance to the proposal are the following matters:

- 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.
- d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.
- e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

10.9 In regard to (a) above, I consider that the approval of the outfall structure, associated diffuser and subsequent discharge from the structure would be able to preserve natural character. The background to this application and the authorised outfall extension has arisen from discolouration issues leading to complaints from Whirinaki residents and non-compliance. The increased dilution offered by the extended outfall is expected to ensure that the discharge is not conspicuous. Furthermore, the outfall structure and associated concrete blocks will not be visible from the shore. While the structure will occupy the sea bed and the discharge is into the sea (Tangitu) it occupies a small area and has no more than minor effect on the natural character of the sea. Therefore, I consider that the overall proposal is consistent with the intentions of section 6(a).

10.10 I also consider that the proposal is able to meet the requirements of section 6(d) as there is no restriction of access to the CMA proposed by the discharge and occupation permits. However, exclusion zones⁷¹ must be noted and are considered best practice in regard to ocean outfalls. This protects the structure itself and is important for health and safety. This may also lend itself to providing sanctuary to fish to the benefit of the fishery.

10.11 Section 6(e) is of particular relevance to the application and the matter has been addressed in detail by the applicant. The application describes the importance of Tangitu⁷² to tangata whenua in the area. A number of submitters state that the discharge has contributed to the depleted state of the fishery in Hawke Bay. However, from the information provided with suitable scientific supporting material⁷³, I do not consider that

⁷¹ See recommended Condition 26 that requires an exclusion zone between the diffuser and within a 150 m radius of the buoys

⁷² Section 6.4, AEE

⁷³ AEE, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017.

the discharge or occupation by the outfall have caused or will cause deterioration in the fishery supported and provided by Tangitu. I note that some parties have referred to the CMA as 'Tangaroa' and for clarity, based on the information and evidence of Mr Smith, Dr Hickey and the review undertaken by Dr Kelly, I consider the bio-physical effects will be minor (at worst) and to the extent that potential effects on these relationships⁷⁴ are underpinned by bio-physical effects (that can be considered minor at worst), I consider that the potential cultural effects are minor. The proposed conditions support the continuation of consultation and involvement of Maori in the activity. This involvement was provided for through the working party process and is included in the Environmental Trust as noted below. On that basis, in my view the relationship outlined by Section 6(e) should not be compromised by the proposal.

10.12 The applicant stated the following in section 7.3.2⁷⁵ of its application:

"In regard to effects on Mauri associated with issues of water quality and sea life, and the impact that this has on the ability to gather seafood is no more than minor... the Working Party has recommended that any residual effect on cultural values be offset by a condition requiring the establishment of an Environmental Trust as set out in Appendix 3".

10.13 On balance I consider that the applicant has recognised and provided for the relationships listed in Section 6(e) above. The understanding of these relationships were recognised through the MCA process and the applicant has sought and provided scientific evidence that shows the biophysical effects on the receiving environment are not of concern. In my view, considerable efforts have been made by the applicant to understand and quantify the effects of their activities.

10.14 The applicant has demonstrated and continues to demonstrate a willingness to engage with tangata whenua, hapu and iwi and I consider that the applicant has a good understanding of the importance of the need to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. Ongoing consultation with tangata whenua, hapu and iwi, the Environmental Trust concept and suitable monitoring as proposed and recommended is considered an appropriate means to ensure the activity is consistent with Section 6. I

⁷⁴ Section 6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

⁷⁵ Pg. 46, AEE

consider that an ongoing commitment from the applicant is required to enhance the coastal environment and to recognise and provide for the matters set out in Section 6. I consider that the recommended consent conditions ensure that this ongoing commitment is understood and provided for.

Section 7 Other matters

Section 7 of the RMA lists matters that must be given particular regard to. The following Section 7 matters are relevant to the proposal.

- 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 value:
- d) intrinsic values of ecosystems
- f) maintenance and enhancement of the quality of the environment
- g) any finite characteristics of natural and physical resources

10.15 I agree with the applicant that particular regard would be had to Kaitiakitanga through the recommended conditions of consent.⁷⁶ The application and proposed consent conditions are considered consistent with the ethic of stewardship detailed by Section 7(aa) with the opportunity for hapu to exercise their responsibilities as kaitiaki in relation to the activity.

10.16 The proposal and the ongoing operation of the pulp mill is an efficient use and development of a natural and physical resource and is consistent with Section 7(b).

10.17 Section 7(c) requires particular regard to be given to the maintenance and enhancement of amenity values. Provided the applicant is compliant with the recommended consent conditions, amenity values of Whirinaki residents should be maintained.

10.18 In his review of the resource consent application, Dr Shane Kelly concluded that the impacts of the consented offshore outfall are likely to be localised and of a relatively minor nature⁷⁷ and with this I consider that the proposal gives particular regard to the intrinsic values of ecosystems referred to in Section 7(d).

⁷⁶ Pg. 47, AEE

⁷⁷ Review of Pan Pac application for coastal occupation and discharge consents, Dr Shane Kelly, Coast and Catchment Ltd dated 27 October 2017.

- 10.19 In regard to 7(f) I consider that on balance the proposal will ensure that the quality of the environment is at least maintained. Furthermore, the Environmental Trust concept offers the potential for environmental enhancement. Continuation of improvements to the wastewater treatment system consistent with Pan Pac's approach in previous years offers another opportunity for further environmental enhancements.
- 10.20 Fish stocks and sea life can be considered a finite resource. The applicant has provided scientific information detailing that effects on these resources are minimal and will continue to be neutral⁷⁸. The review by Dr Kelly is consistent with these comments and therefore I consider Section 7(g) has been considered and addressed. The conclusions of the NIWA mussel monitoring study and the review of toxicity undertaken by Dr Hickey are key pieces of scientific information provided by the applicant on this matter.⁷⁹ Note that the recommended conditions include an exclusion zone relating to the required dilution. Buoys and signage are required to signal this exclusion zone.

Section 8 Treaty of Waitangi

- 10.21 Section 8 of the RMA requires all persons exercising functions under the RMA to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The Pan Pac consenting process in relation to the proposed activities has a background that has been explained in detail by the applicant and is recognised in the submission made by MTT who have had a significant involvement in this background. The submissions indicate that following consultation undertaken prior to the consent application being lodged, there is not full agreement between Pan Pac, tangata whenua, hapu and iwi to date. However, the applicant continues to undertake meaningful consultation with these parties and shows a clear willingness to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

11. Consent Duration

- 11.1 If the Court chose to grant consent for the proposed activities, a consent duration must be specified for both consents. The applicant has sought a duration of 35 years for all consents.

⁷⁸ Pg. 47 and Pg. 48, AEE

⁷⁹ Appendix 4, AEE

11.2 In considering the most appropriate consent duration I have considered the following factors:

- the Regional Coastal Environment Plan (November 2014)
- the level of information regarding the effects of the activities
- the effects of the activities
- Environment Court decisions (case law)
- Other regional comparisons.

11.3 Case law directs that an applicant is entitled to as much security of term as is consistent with sustainable management⁸⁰.

11.4 In terms of section 5(2) and section 123(c), the following matters are relevant factors to be considered:

- enabling people to provide for their economic well-being (in the context of a statutory purpose)
- the economic effects on the consent holder of a particular consent term.

11.5 Section 29.2.3 of the RCEP provides guidance on consent duration. The RCEP states that the Regional Council will grant land use consents for land use activities pursuant to section 9, and reclamations pursuant to section 13 of the RMA for an unlimited period, and resource consent for other activities, including discharges, for a period of 20-35 years unless one or more of the following exceptions apply:

- the activity has a duration of less than 20 years, in which case a consent will be granted for the duration of the activity
- there is a need to align the consent expiry date with others, in order that the cumulative effects of activities can be considered through a common consent renewal process
- the consent is for the allocation of gravel or another resource whose availability changes over time in an unpredictable manner
- the type of activity has effects that are unknown or potentially significant for the locality in which it is undertaken
- at the time of granting consent, the effects of the activity are/were unknown or little understood and a precautionary approach is adopted

⁸⁰ NZED 50 Prime Range Meats Ltd v Southland Regional Council
NZED 659 PVL Proteins Ltd & Anor v Auckland Regional Council

- 11.6 A decision on what is the appropriate term of the applications requires an assessment of the actual and potential effects on the environment, the nature of the discharge, the sensitivity of the receiving environment to adverse effects and discharge alternatives.
- 11.7 The effects of the activity have been discussed in section 7 of this report. The findings and conclusions of the information and scientific reports provided by the applicant in relation to the proposal and its effects are considered sufficient to ensure that the bio-physical effects are not unknown or potentially significant. Therefore, I do not consider that a term less than 20 years would be warranted.
- 11.8 One of the submitters has stated that the duration should be limited to 10 years⁸¹ to enable further time to be taken to explore alternatives. However, the alternatives have been appropriately investigated and considered and therefore, limiting the consent duration to 10 years is not considered appropriate.
- 11.9 The consent durations of two other ocean outfall discharges are considered relevant when considering a duration for these applications. The Hastings District Council discharge of domestic sewage and industrial wastewater into Hawke Bay at East Clive was given a 35 year duration (granted in 2014) and the Napier City Council municipal discharge into Hawke Bay was given a 25 year duration (granted in 2011).
- 11.10 In this case, considering the magnitude of financial investment that has been made by the applicant in the Whirinaki site itself and specifically in the wastewater treatment plant and outfall structure, and the entitlement for the applicant to have as much security of term as is consistent with sustainable management. In light of the consent duration of other similar consents that have been granted in recent years, and acknowledging the long term nature of the applicants activities in this region and ongoing investment in the long term supply of plantation forestry to supply the Whirinaki mill, a consent duration of 35 years for both the discharge and the occupation consent is recommended, should the Court decide to grant consent.

12. Conclusion

- 12.1 The applicant has applied for the renewal of an existing discharge permit and the replacement of a coastal occupation permit. The applications were publicly notified at

⁸¹ Maungaharuru-Tangitu Trust, summary of submission attached as Appendix 1

the request of the applicant and thirteen submissions were received. Of those submissions, nine oppose the proposal. Opposition was based primarily on the effects of the discharge on the receiving environment.

12.2 The applicant has spent considerable time and effort assessing alternative options to the ocean discharge and has undertaken a multi-criteria assessment. This assessment of alternatives was undertaken by a 'Working Party' appointed to identify and recommend a preferred treatment and disposal option using a MCA process. The outcome of the alternatives assessment resulted in the ocean outfall (from the extended pipeline) having the highest total score. Furthermore, the MCA process recommended the establishment of an environmental trust to offset any residual effects and focus on enhancement of the local environment.

12.3 I am aware of the concerns that tangata whenua, hapu and iwi have raised regarding the continued discharge of process wastewater into the coastal environment, but I consider that the environmental effects have been addressed and the proposal, including the recommended conditions of consent are sufficient to ensure that the environment is safeguarded from potential effects. In conclusion I consider that the activities are unlikely to result in any more than minor effects on the physical environment. I consider the applicant's activities are beneficial to the regional economy and help to provide for the social and economic wellbeing of the community. The effects of the proposed activity on the cultural wellbeing of Hawke Bay are more difficult to quantify, but on balance, I consider that the proposed activity is consistent with the concept of sustainable management, the overriding purpose of the RMA.

Reece O'Leary
Senior Consents Planner
EXTERNAL RELATIONS GROUP
17 November 2017

Malcolm Miller
Manager Consents
EXTERNAL RELATIONS GROUP
17 November 2017



The Resource Management Group of the Hawke's Bay Regional Council is ISO 9001-2008 certified

13. Appendices

Appendix 1 Summary of Submissions

Submission Number	Submitter Name	Support/ Oppose/ Neutral	Summary of Submission	Outcome requested
1	Brian Edwards	Support (wish to be heard)	<p>1.1 Believe the overall proposal (including pipeline structure) provides an opportunity to enhance sea life.</p> <p>1.2 Supports the idea of an artificial reef being created as a result of the pipeline structure and its occupation of the seabed.</p> <p>1.3 Would like to know setback distances (from the pipeline/diffuser) for trawlers and other boats.</p>	Implies that the consent applications should be granted and an artificial reef should be created incorporating the pipeline.
2	Kay Cave	Oppose (does not want to be heard)	<p>2.1 States that she does not have the ability/knowledge to understand the technical information put forward by Pan Pac.</p> <p>2.2 Is concerned about the chemicals and toxins/pollutants that Pan Pac are discharging.</p> <p>2.3 Disagrees that effects are no more than minor and is concerned with the reduction in fish, crabs, seaweed and whelk shells.</p> <p>2.4 Believe that the discharge produces a scum and foam and that the discharge of pollutants or, chemicals must have a detrimental effect on people and marine life over a period of time.</p>	The applications be declined to stop and prevent Pan Pac from discharging waste or pollution into the ocean.
3	LegaSea Hawke's Bay	Neutral (does not want to be heard)	<p>3.1 Do not have any issues with the outfall pipe or discharge diffuser.</p> <p>3.2 Further testing should be done at the outfall to determine levels of toxicity to Finfish</p>	<p>If the resource consents are granted, LegaSea would like conditions added requiring:</p> <p>An annual sample (at least) of the discharge</p>

			3.3 Supportive of the Pan Pac Environmental Trust concept.	to be taken at the outfall location. Establishment of an Environmental Trust to recognise residual effects associated with the discharge.
4	Citizens Environmental Advocacy Centre (CEAC) C/O: Warren Kohlis	Oppose (wish to be heard)	4.1 States that the discharge will have a detrimental effect on the marine environment that will be more than minor. 4.2 Believe that the application is in conflict with the following provisions of the RMA: Part 2 sections 5, 6(a), 7(b,c,d,f) Part 3 section 17 (1), Schedule 4 clause 6 (1)(a, b, d (i) & (ii), e & f, clause 7 (1) (a, b, c, d, e) 4.3 Notes that we are in the 21 Century and there is no need to be polluting our marine environment anymore. 4.4 Believe that there is another option for the Pan Pac discharge.	CD170262W (i), (ii), (iii) & (iv) be declined. If the application is granted, an “end of pipeline standard” is requested and the mixing zone should be as small as possible to reduce the risks. Requests that a condition requiring corrective action be included and time for corrective action to be taken be included also.
5	Anthony Jenkins	Oppose (does not want to be heard)	5.1 Believe that the discharge is partly responsible for the decline of marine life in the area. 5.2 In the past few years there are less “boil ups” of bait fish in this area. 5.3 States that the brown stain on the water is an eye sore and that moving it further out to sea will not solve the problem but enlarge it.	Requests that the application (CD170262W) be declined and Pan Pac looks at other discharge options.
6	Kerry Anne Astwood	Oppose (does not want)	6.1 States that the discharge will affect sea life on the sea bed.	Requests that the application (CD170262W) be declined and for

		to be heard)	6.2 Believe that something has happened to the marine environment as a result of the discharge. 6.3 Notes the decline in fisheries and the wash up of welkshells and little amphipods along the shore.	Pan Pac to look at another environment to discharge (into/onto).
7	Ahuriri Estuary Protection Society Inc.	Support (does not want to be heard)	7.1 Notes that Pan Pac considered both a land based discharge and an ocean discharge via an extended outfall. 7.2 Favours the ocean outfall (via pipeline extension). 7.3 The society considers that Pan Pac has been an extremely responsible 'corporate citizen' as they have continually upgraded new technology as it has become available.	Asks that Pan Pac be required to regularly monitor the receiving waters (including temperature) and benthic life. Request that Pan Pac be required to continue with a stakeholders group and reporting to this group. The society has found this group very useful.
8	Royal Forest and Bird Protection Society of NZ (Napier Branch)	Neutral (does not want to be heard)	8.1 States the importance of Pan Pac providing stakeholders like themselves with a clear understanding of the companies undertakings. 8.2 Would like to be represented to the annual stakeholders group.	Be required to continue with stakeholders group. Requests that Pan Pac abide well within current and future environmental law regulation.
9	Mathew Mullany for the Waiohiki Marae Trustees on behalf of Ngati Parau Hapu	Oppose (wish to be heard)	9.1 Details that the trustees currently have a MACA Act application with the High Court. 9.2 Notes that the Hapu (Ngati Parau) hold mana moana in the Napier Coastal Marine Area including Pania Reef (located in an area neighbouring the consent application).	Requests that the consents be declined and that Pan Pac provide relief (including consequential relief) to address the concerns of the trustees. Promotes that the treated

			<p>9.3 Emphasises ancestral lineage with the sea and its subsequent Kaitiaki role.</p> <p>9.4 Acknowledgement that Tangoio Hapu hold mana moana in the area of the proposed application.</p> <p>9.5 States that the proposal will have a cumulative impact on the mauri of Pania Reef and have an adverse effect on the mauri of the coastal environment within Te Matau a Maui.</p> <p>9.6 States that the proposal is cumulative to the current and previous discharges and other degradation of the CMA caused by human activities.</p>	<p>effluent be discharged to land via best practice.</p>
10	Maungaharuru Tangitu Trust	Oppose (wish to be heard)	<p>10.1 The submission gives some background to the application the trusts opposition to the previous consent application and subsequent Environment Court appeal.</p> <p>10.2 The submission states that the existing discharges, unimplemented discharge (as varied) and associated consents, and the activities they authorise, cannot be considered part of the existing environment for the purposes of assessing the current application.</p> <p>10.3 The submission details the representation of the trust and its relationship with Tangitu that was recognised by the Environment Court.</p> <p>10.4 The Trust believe that the application will not implement and/or give effect to the objectives, policies, and other provisions of the planning provisions relating to the proposal.</p> <p>10.5 The proposal is considered unproven and is cumulative</p>	<p>Requests that the application be declined.</p> <p>If approved, the duration should be limited to 10 years as opposed to 35 so as to enable further time to be taken to explore alternatives.</p> <p>If approved, greater involvement of tangata whenua in monitoring, further investigations and future alternatives is sought.</p>

			<p>to the current and previous discharges and other environmental degradation.</p> <p>10.5 States that the 'out of sight, out of mind' approach is inappropriate and also that the proposal is inconsistent with Pan Pac's commitment to 'do the right thing'.</p> <p>10.6 The Trust do not believe the alternatives were considered in a robust way and do not think that Pan Pac achieved best practice consultation.</p>	
11	Ngahiwi Tomoana	Oppose (does not want to be heard)	<p>11.1 The submission details that Ngati Kahungunu Iwi Incorporated (NKII) support the concerns raised by Ngati Kahungunu tangata whenua, whanau, hapu and marae including those trusts and organisations who act as their representatives.</p> <p>11.2 NKII believe that the application should be for a new consent as opposed to the current proposed variation of consent.</p> <p>11.3 NKII seeks to minimise the amount of contaminants entering the marine system and is opposed to significant degradation of the moana and its mauri.</p> <p>11.4 The application made by Pan Pac should not unduly counter the efforts made by many community groups and tangata whenua to improve the environment. Concerns raised over the increase in contaminants entering the moana.</p> <p>11.5 Believes there is potential for impacts on customary fishing rights and aquaculture interests held by NKII.</p> <p>11.6 States that there is insufficient evidence as to</p>	<p>Requests that the application be declined.</p> <p>NKII would like to see the concerns of tangata whenua, whanau, hapu and marae addressed.</p> <p>If granted, NKII would like a condition included to resource local tangata whenua and hapu to monitor the effects of the outfall over time for the duration of the consent.</p>

			whether or not Pan Pac explored alternatives and only limited evidence of meaningful engagement in terms of consultation with local hapu.	
12	Bonny Hatami for: Ngati Pahauwera Development Trust Limited, Petane Marae, Moteo Marae and Te Taiwhenua o Te Whanganui A Orotu	Oppose (wish to be heard)	<p>12.1 The submission discusses the reliance of Maori on Tangaroa and the interest that everyone has in the health of the moana.</p> <p>12.2 The discharge and outfall pipe are considered contradictory to the healthy moana.</p> <p>12.3 Marine and Coastal applications in the area are noted by the submission.</p> <p>12.4 Petane Marae, Moteo Marae and Te Taiwhenua O Te Whanganui A Orotu support the submission points.</p> <p>12.5 Ngati Pahauwera Development Trust have a MACA application lodged with the High Court and the area that the outfall pipe and diffuser will occupy is within the area for which the MACA application relates.</p> <p>12.6 The main concern relates to toxicity and particulate matter overload entering the moana. The trust states that there should be no poison in the moana and measures should be taken to enhance the environment as opposed to mitigate the loading damage being done.</p> <p>12.7 The trust believe there is a double negative because water is taken from the Esk River, mixed with chemicals and then put into the ocean.</p> <p>12.8 The submission states that waste management/treatment is</p>	<p>Measurement and reporting regarding the effects of the discharge is requested. The trust would like Pan Pac to work with affected Maori/coastal communities as they would like their people to be a part of the mahi (work).</p> <p>Mitigation is requested in the form of increased research by way of water monitoring and bi-annual assessments of the discharge area.</p> <p>The trust would like to see Pan Pac move toward land disposal in future and away from the ocean discharge.</p>

			a cost of production which like all commodities, determines price.	
13	Marama Fox	Oppose (wish to be heard)	<p>13.1 The submission states that this resource consent application is to extend the outfall to 2.31 km offshore with the consent expiring in 2052.</p> <p>13.2 A better solution is requested and this should involve input from mana whenua, Pan Pac and the wider community.</p> <p>13.3 Believes that it is simply not good enough that the answer to the discharge is an extended outfall which basically says “out of sight, out of mind”</p> <p>13.4 The submission wishes to question the marine effects and cumulative effects (current and previous) stating that people are unable to practice mahinga kai in the area.</p> <p>13.5 Pan Pac have the opportunity to lead the way with respect to how international companies operate in New Zealand. Pan Pac can begin with working collaboratively mana whenua, other stakeholders and the community to find a more sustainable solution that is culturally appropriate.</p> <p>13.6 There is a risk to entertaining a temporary structure or one that is short-term because it has been consented and would therefore be considered part of the existing environment.</p> <p>13.7 The application is inconsistent with sections 6(e), 7(a) and 8 of the RMA.</p>	Decline the application and provide respite to address the issues raised in the submission.

Appendix 2 Multi-Criteria Assessment – Waste Water Treatment and Disposal Options Summary⁸²

Pan Pac Waste Water Treatment and Disposal Options Summary

Option	Option 1 Discharge to extended outfall	Option 2b Discharge to existing outfall (following membrane filtration) and irrigation to land.	Option 4b Partial reuse of wastewater and irrigation to land.	Option 5b Zero liquid discharge
Existing Infrastructure	Existing Wastewater Treatment Plant	Existing Wastewater Treatment Plant Existing Outfall	Existing Wastewater Treatment Plant	Existing Wastewater Treatment Plant
Additional Treatment	-	Micro filtration (Pre-treatment) Nano filtration (Colour removal)	Evaporator / Condenser	Evaporator / Condenser Recovery Boiler
Additional Infrastructure	Extended Outfall	Irrigation water storage dam = 190,000m ³ . Irrigation system.	Irrigation water storage dam = 290,000m ³ . Irrigation system. Recovered water storage pond.	Recovered water storage pond. Recovery boiler for concentrate. Solids to landfill.
Waste Disposal Method	Extended outfall 10,000 m ³ per day	Existing outfall 8,000 m ³ per day Irrigation of nano-filtration rejects to land = 2,000 m ³ per day	Irrigation of treated wastewater to land= 5,000 m ³ per day Recycled water returned to plant = 5,000 m ³ per day Concentrate trucked to Kinleith	Recycled water returned to plant
Cost	CAPEX \$5M OPEX \$10K	CAPEX \$56.7M OPEX \$5.165M	CAPEX \$49.9M OPEX \$4.225M	CAPEX \$81M OPEX \$6.205M
Other Discharges Associated with Option		<ul style="list-style-type: none"> Boiler ash to landfill Air discharge from boilers 	<ul style="list-style-type: none"> Boiler ash to landfill Air discharge from boilers NB - Air discharge and boiler ash to landfill for offsite combustion	<ul style="list-style-type: none"> Boiler ash to landfill Air discharge from boilers Recovery boiler ash to landfill Air discharge from recovery boilers
Considerations	<ul style="list-style-type: none"> Consented after Environment Court hearing - 2016 	<ul style="list-style-type: none"> High capital and operating costs. No commercial precedent for membrane filtration at these volumes. High solids / salt concentration may limit land disposal. 	<ul style="list-style-type: none"> High capital and operating costs. High solids / salt concentration may limit land disposal. Reliance on Kinleith. 	<ul style="list-style-type: none"> High capital and operating costs. Solids from recovery boiler process to landfill. Process shutdowns would affect mill production
Key Effects - Strengths - Opportunities	<ul style="list-style-type: none"> Known & measured environmental effect (existing discharge point) Proven concept Scientific evidence tested in Env Court Extended Outfall is well beyond known reef systems Better mixing / dilution than existing discharge Seawater kills freshwater pathogens Some colour components occur naturally as well Capex/Opex cost effectiveness Potential increase to fish population No commercial fishing in vicinity of pipeline Toxicity proven to be less than minor Opportunity for partially off-setting effects 	<ul style="list-style-type: none"> Less organic material & BOD to sea than option 1 Removal of bacterial load to sea environment Shared environmental impact between land & sea environments Correct membrane implementation will remove colour Reduced infrastructure in the ocean (compared to option 1) Pan Pac manages own waste Increased short term employment Have ownership of required land Pine forestry has high evapotranspiration rates 	<ul style="list-style-type: none"> No sea discharge Reduced water take costs Reduced Esk River water take Have ownership of required land Pine forestry has high evapotranspiration rates 	<ul style="list-style-type: none"> True zero (process) water discharge from site Significantly reduced water take Is proven technology at this scale Allow for receiving environment to recover Culturally most preferred option Improved public & commercial perception of business (social license)
Key Effects - Threats - Weaknesses	<ul style="list-style-type: none"> Negative impact on cultural values Further intrusion into ocean environment Some local effect on seabed (close proximity) Some negative impact on water quality Larger mixing zone compared to current diffuser Potential marine navigation hazard Larger warning zone for recreational / commercial / cultural food gathering Low risk of colour being periodically visible from shore Unmapped reef systems being impacted Continuing culturally offensive impact 	<ul style="list-style-type: none"> Bacterial loading diverted to land environment Concentration of effluent discharged to land Conflict of irrigation system & forestry operation Storage dam located uphill of community Recreational restrictions on forest area Increased operating costs No value of effluent to forestry & potential negative risk High operating costs Potential loss of long term employment Interim permission to continue sea discharge as-is Existing colour discharge remains for 2-5 years Finite lifespan of land receiving environment No precedent of membrane technology on this scale & associated uncertainty Continuing culturally offensive impact Still utilises short sea outfall Commissioning phase could cause unexpected discharges Management of two resource consents 	<ul style="list-style-type: none"> Bacterial loading diverted to land environment Concentration of effluent discharged to land Conflict of irrigation system & forestry operation Large water storage uphill of community Recreational restrictions on forest area Increased operating costs No value of effluent to forestry & potential negative risk High operating costs Potential loss of long term employment Interim permission to continue sea discharge as-is Existing colour discharge remains for 2-5 years Finite lifespan of land receiving environment Increased fossil fuel consumption Large additional industrial buildings on-site Transportation of par between regions Relies on Kinleith resource consents & business approval Potential business interruption with transport routes being impacted Uncertainties at this scale of impact of salt loadings on soil & is a technical challenge 	<ul style="list-style-type: none"> High operating costs Potential loss of long term employment Interim permission to continue sea discharge as-is Existing colour discharge remains for 2-5 years Increased fossil fuel consumption Large additional industrial buildings on-site Increased ash solids for disposal Requires additional on-site water storage Requires variation to existing air discharge consent

Appendix 3 Review of Pan Pac application

MEMO

Attention: Reece O'Leary, Hawkes Bay Regional Council

Cc: Malcolm Miller, Hawkes Bay Regional Council

From: Shane Kelly

Date: 8 November 2017

Regarding: Review of Pan Pac application for coastal occupation and discharge consents.



1 Background

At your request, I have reviewed the assessment of environmental effects (AEE) associated with Pan Pac Forest Products' (Pan Pac) application for:

- A Coastal Discharge Permit to discharge, process wastewater from the manufacture of wood pulp, lumber, treatment of water, and leachate from a landfill after treatment, into the Coastal Marine Area, through an outfall pipe and diffuser (as currently authorised under HBRC resource consent CD160286W).
- The occupation of the coastal marine area with an outfall pipe and discharge diffuser (as currently authorised under HBRC resource consent CL1602870).

My review was limited to considering the effects of the pipeline and the wastewater discharge on the coastal environment. I note that those effects were also considered in relation to a relatively recent consent application and associated appeal to the Environment Court¹. The additional material provided in the current AEE expands upon, and is consistent with the information I have previously reviewed through my involvement in those processes.

2 Key environmental issues

Process wastewater from Pan Pac contains a complex mix of contaminants with the potential to adversely affect marine organisms, human health, and water and habitat quality. Potential issues include effects on:

- marine biota caused by toxic chemicals or other physico-chemical stressors (pH and temperature);

¹ Maungaharuru-Tangitu Trust v Hawkes Bay Regional Council 2016

- fisheries resources, including the safety and condition of kaimoana;
- benthic ecology caused by changes to sediment quality or characteristics, and the presence of a hard pipe structure in a sediment habitat; and,
- water colour and clarity.

The AEE includes assessments of these matters in three appended reports:

1. Hickey (2017), which considers wastewater toxicity, and the safety and condition of kaimoana. In summary that report shows and/or concludes that:
 - The Pan Pac wastewater contains a complex mixture of potentially toxic organic chemicals, but the biological treatment system is highly efficient at reducing the concentrations of toxic components. As a result, water quality guidelines for the receiving waters will be well met after 100x dilution (as required by consent).
 - Pan Pac's consent condition requiring no wastewater toxicity after 100 times dilution has been satisfied on all 11 occasions that testing has been carried out since 2012.
 - No obvious chemical contaminant(s) of concern were identified in a study of mussel samples obtained from the inshore outfall, and from a remote reference site. All contaminants detected in mussel tissues were at trace levels and did not show any relationship with the Pan Pac wastewater discharge.
 - Pan Pac's current consent has a requirement for a mussel biomonitoring study that will assess the safety and condition of kaimoana through the measurement of microorganisms and a suite of chemical contaminants in mussels, and their physical and biochemical condition.

I accept the findings and conclusions of Hickey (2017), which demonstrate that water around the outfall is unlikely to be toxic if current levels of treatment are maintained and consented dilution requirements are adhered to.

2. Smith (2017)², which considers effects on benthic ecology and fisheries. In summary, that report shows and/or concludes that:
 - The inshore outfall has been colonised by a variety of sessile and mobile invertebrates, with the largest contributor to the biomass being green-lipped mussels. The offshore pipeline is likely to be colonised by a similar variety of species.
 - Based on monitoring results from the inshore outfall, a minor increase in fine organic material is expected in sediments around the offshore discharge structure. This is likely to cause a localised increase in disturbance tolerant species such as the polychaete *Heteromastus filiformis*. The overall magnitude of effects is likely to be no more than minor.
 - A variety of fisheries species are (or are likely to be) caught in the vicinity of the consented outfall, but overall effects on fisheries resources are anticipated to be insignificant.

² I also referred to Smith (2015), which contains a more detailed analysis of the benthic data presented in Smith (2017).

While I have reservations about the way some information in the ecological and fisheries assessment has been presented and interpreted³, I still agree with the overall conclusions of the assessment. In relation to benthic effects, I note that long-term monitoring of the inshore outfall informed those conclusions. I consider the inshore monitoring to have been a robust programme, which was carried out and reported to a high standard. The findings of that programme should largely be transferrable to the offshore outfall. As for fisheries, I have taken into account:

- the results of Hickey (2017) that indicate water quality guidelines for receiving waters will be well met after 100x dilution;
- the lack wastewater toxicity (after dilution) in the 11 tests carried out since 2012;
- the lack of chemical contaminant(s) of concern in the mussel study;
- the relatively minor and localised nature of benthic effects caused by the existing discharge; and,
- the mobility of targeted finfish species.

Despite this, submitters have highlighted observations of fewer “boil-ups” of bait fish⁴ and dwindling fish catches⁵ around Whirinaki Beach, and linked them to the discharge. There are many potential reasons for variation in fish populations, including natural variability, fishing effects, and changes in habitat quality. The potential for observational bias also needs to be considered. Given that, and the lack of quantitative information that would support the submitters concerns, I am unable to determine the validity and significance of the matters raised in these submissions.

Based on the above, I therefore conclude that overall effects on fisheries resources are likely to be insignificant.

3. Consulting Environmental Engineers (2014), which considered options for addressing color and clarity issues. This assessment underpinned the selection of the current offshore outfall option, which was considered and approved by the Environment Court.

3 Consent conditions

Pan Pac are largely seeking to operate under their existing conditions of consent. In terms of effects on the coastal environment, the only material change being sought is to adopt a seven-day maximum discharge volume of 105,000 m³, rather than the current daily limit of 15,000 m³. This seems reasonable, given that other limits and performance standards will remain in place. The applicant also seeks to remove conditions related to undertaking:

³ For example, the suggestion that additional inputs of organic material from the outfall will help support highly productive fisheries in the area.

⁴ Anthony Jenkins

⁵ Kay Cave

- an ocean surface monitoring study for at least one year following commissioning of the new diffuser (Condition 22), and
- a mussel monitoring study ((Condition 29).

I understand that Pan Pac envisage these studies being completed under the existing discharge consent. If so, the conditions would become obsolete and no longer be required. However, the duration of these studies may extend beyond the period covered by the existing consent, and into the period covered by the new discharge consent. I am uncertain about the implications of this.

4 Conclusions

Based on the information presented in the AEE my conclusions remain the same as those presented to the Environment Court. That is, the information produced on behalf of the Applicant provides a good basis for assessing the effects of the consented offshore outfall. The proposed conditions also include a comprehensive set of requirements to ensure:

- the discharge is operated within specified limits and performance standards (e.g. for discharge volumes, pH, temperature, suspended solids, enterococci, toxicity, benthic flora and fauna, water colour);
- feedback is provided through monitoring and reporting;
- additional mitigation measures further reduce the potential for certain adverse effects (e.g. a requirement to install and maintain signage warning about the risks of seafood harvesting near the outfall).

Based on this, I accept that the impacts of the consented offshore outfall are likely to be localised and of a relatively minor nature. Furthermore, in my opinion, the draft conditions provide a robust mechanism for detecting and responding to unanticipated adverse environmental effects (although the implications of deleting ocean surface and mussel monitoring requirements should be checked).

5 References

- Consulting Environmental Engineers (2014) Effluent outfall upgrade project 2014. Client report for Pan Pac Forest Products Ltd., Consulting Environmental Engineers,. 32 pp.
- Hickey, C.W. (2017) Review of toxicity of Pan Pac Forest Products Ltd wastewater discharge to Hawke Bay. NIWA Client Report 2017142HN, NIWA, Hamilton.
- Smith, S. (2017) Assessment of effects on benthic ecology and fisheries resources from wastewater discharge from the Pan Pac ocean outfall. Client Report for Pan Pac Forest Products Ltd. 17004, Triplefin, Napier. 34 pp.

Appendix 4 List of Individuals and Parties Directly Notified

	Address 1	Address 2	Address 3	Address 4
Hawke's Bay Fish & Game Council	Attn: Andy Garrick	PO Box 7345	Taradale	Napier 4141
HB District Health Board	Attn: Maree Rohleder	Private Bag 9014	Hastings 4156	
Minister for the Environment	PO Box 10362	Wellington 6143		
Minister for Primary Industries	PO Box 2526	Wellington 6140		
Minister of Conservation	PO Box 10420	Wellington 6143		
Pan Pac Forest Products Ltd	Attn: Dale Eastham	Private Bag 6203	Hawke's Bay Mail centre	Napier 4142
Hastings District Council	Private Bag 9002	Hastings 4156		
Department of Conservation	PO Box 644	Napier 4140		
Heritage New Zealand Pouhere Taonga	PO Box 2629	Wellington 6140		
Maungaharuru Tangitu Trust	Attn: Shayne Walker	PO Box 3376	Hawke's Bay Mail Centre	Napier 4142
Trustees of the Ngati Pahauwera Development Trust	PO Box 374	Wairoa 4160		
Mana Ahuriri Incorporated	Attn: Piri Prentice	PO Box 152	Hastings 4156	
Ngati Kahungunu Iwi Incorporated	PO Box 2406	Hastings 4156		
Petane Marae	Attn: Maree Brown	8A West Place	Greenmeadows	Napier 4112
Tangoio Marae	The Secretary	PO Box 4227	Marewa	Napier 4110
Te Taiwhenua O Te Whanganui-a-Orotū	Attn: Roy Pewairangi	6 Owen Street	Napier 4110	
Te Taiwhenua O Heretaunga	PO Box 718	Hastings 4156		
Stella Fisheries Limited	481 Marine Parade	Napier South	Napier 4110	
Nino's Ltd	343 The Parade	Island Bay	Wellington 6023	
Allstar Fishing Limited	11 Sheehan Street	Bay View	Napier 4104	
Karl & Sarah Warr and Glen McClelland	11 Sheehan Street	Bay View	Napier 4104	
Taylor Sailor Limited	108 Meeanee Road	Taradale	Napier 4112	
Esplanade No 3 Limited	PO Box 174	Napier 4001		
Michael & Judith Terry	PO Box 122	Bay View	Napier 4149	
Richard & Linda Burch	7 Lawrence Road	Hospital Hill	Napier 4110	
Peter Hetterley	26A Battery Road	Ahuriri	Napier 4110	

Bruce Greathead and CDT3 Limited	19 Darwin Crescent	Maraenui	Napier 4110	
Napier Trawling and Fishing Ltd	19 Darwin Crescent	Maraenui	Napier 4110	
Kevin & Shona Otter	55 Tait Drive	Greenmeadows	Napier 4112	
Raymond Jamieson	PO Box 7413	Taradale	Napier 4141	
Isabel Morgan	160 Vigor Brown Street	Napier 4110		
HB Clean Sea Coalition	PO Box 20	Napier 4140		
Quentin Bennett	20 Napier Terrace	Hospital Hill	Napier 4110	
Richard Karn	PO Box 3131	Hawke's Bay Mail Centre	Napier 4142	
Forest & Bird Protection Society	PO Box 631	Wellington 6140		
Ngati Parau Rapihana Te Kaha Hawaikirangi, tkhawai@gmail.com	36 Trinity Crescent	Pirimai	Napier 4112	
Heretaunga Tamatea Liz Munroe, evmunroe@gmail.com				
Te Aitanga a Puta, Ngati Kurupakia e Ngai Taura. Peter Riki Mihaere Pr.mihaere@gmail.com				
Whirinaki Road Occupiers/Owners⁸³				

⁸³ A 'letter box drop' was undertaken along Whirinaki Road to advise the residents of the application and the same letter was sent to property owners.

Appendix 5 Recommended conditions of consent

Consent Number: CD170262W

Purpose:

to discharge:

1. treated process wastewater from the manufacture of wood pulp,
2. treated process wastewater from the manufacture of lumber, and
3. treated process wastewater from the treatment of water, and
4. leachate from a landfill (authorised by consent DP090667L) after treatment, into the Coastal Marine Area, through an outfall pipe and diffuser.

Condition Number	Condition	Comments/reason for inclusion
1	<p>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. This includes but is not limited to the following:</p> <p>d) Plan DR-140707-010 Rev 4 Pan Pac Forest Products Limited Whirinaki Ocean Outfall Extension General Details prepared by CEE Environmental Scientists and Engineers; and,</p> <p>e) Plan DR-140707-016 Rev 3 Pan Pac Forest Products Limited Whirinaki Ocean Outfall Extension Sections and Details prepared by CEE Environmental Scientists and Engineers.</p> <p>If a conflict arises between any conditions of this consent and the application, the conditions of this consent will prevail.</p>	Best practice.
2	The volume discharged shall not exceed 105,000 m ³ in any seven day period.	<p>Monitoring</p> <p>This is a change from the current daily limit of 15,000 m³. The overall effects as a result of this change to a 7 day maximum are the same as what is currently authorised.</p>
3	The rate of discharge from the landfill shall not exceed 0.5 litres per second.	Monitoring
4	The diffuser shall be designed to achieve dilution of not less than 500:1 at 150 metres from the nearest point of the diffuser (the perimeter of the mixing zone).	Monitoring
5	The suspended solids discharged on any day shall not exceed 10 oven-dried tonnes, and the 98th percentile of results shall be less	Monitoring

	than 6.5 oven-dried tonnes during any calendar year (measured after treatment and prior to discharge).	
6	The 50th percentile of the suspended solids discharged on any day shall not exceed 2.0 oven-dried tonnes during any calendar month (measured after treatment and prior to discharge).	
7	The pH of the wastewater shall be between 4.5 and 9.0 (measured after treatment and prior to discharge).	Monitoring
8	The average temperature of the wastewater over any day shall not exceed 70 degrees C (measured after treatment and prior to discharge).	Monitoring
9	<p>From the date of commencement of this consent until 31 December 2018, the consent holder shall sample the wastewater after treatment and analyse it for enterococci bacteria and E.coli at least once each month. The sample results must be provided to Council in accordance with Condition 12. The concentration of enterococci in any sample shall not exceed:</p> <ul style="list-style-type: none"> a) 27,000 per 100 millilitres and; b) a median concentration of 5000 per 100 millilitres in any 5 consecutive samples. <p>If the limits set by 9 a) or 9 b) (above) are exceeded, the consent holder must sample the wastewater after treatment (and analyse it for enterococci bacteria and E.coli) daily for 5 consecutive days (depending on lab availability) and submit the results of these samples along with an action plan detailing what has/will be done to eliminate future exceedances.</p> <p>From 1 January 2019 onwards⁸⁴, the consent holder shall undertake a “Bacteria sampling and monitoring programme” as determined in accordance with a suitable scientific method as certified by the Council (Manager Resource Use).</p>	<p>Monitoring</p> <p>The applicant has commissioned a report regarding the sampling of enterococci bacteria and E.coli. The findings of this report should inform condition 9.</p> <p>The applicant has advised that this condition will be further developed based on the findings of the report that has been commissioned regarding the sampling of ‘bacteria’ prior to the hearing. It is likely that a new condition 9 will be presented in evidence</p> <p>The requirement to sample the wastewater for 5 consecutive days will be dependent on lab availability. Any issues with lab availability should be discussed with</p>

⁸⁴ This date could be amended by the Court. The ESR report could inform the requirements of this condition.

		<p>Council (Manager Resource Use) if the issue arises.</p> <p>“<u>Enterococci</u>” and “<u>E.coli</u>” has been replaced with the word “<u>bacteria</u>” as it is expected that the ESR report will provide further guidance as to the bacteria that should be tested.</p>
10	<p>There shall be no statistically detectable difference in toxicity between a sample taken from uncontaminated seawater (from the location approved by the Council’s Manager Resource Use in 2011), and treated wastewater, when diluted 100 times with the uncontaminated water. Toxicity shall be tested in accordance with condition 15.</p>	Monitoring
11	<p>The consent holder shall inspect the diffuser during each month at which time any blocked ports will be cleared and the number of blocked ports recorded. Provided that, if during any inspection, less than 15% ports are blocked, no inspection need occur during the following month only. Twelve months after the outfall pipeline and new diffuser are installed, the Council (Manager Resource Use) may authorise that frequency of outfall inspections is reduced to three monthly.</p>	Monitoring
12	<p>Before the 16th day of each month the consent holder shall report to the Council, the following information relating to the previous calendar month;</p> <p>a) the volume of wastewater discharged each day,</p> <p>b) the maximum and minimum pH of the wastewater for each day,</p> <p>c) the average temperature of the wastewater on each day, based on a continuous measurement,</p> <p>d) the weight of suspended solids discharged each day based on a 24 hour composite sample,</p> <p>e) the weight of suspended solids discharged, calculated as a monthly median over the calendar month,</p>	Monitoring

	<p>f) any report on diffuser inspections, including the number of blocked ports and whether the diffuser is functioning as expected to ensure compliance with the conditions of this consent.</p> <p>g) the results of monitoring required to be undertaken in accordance with the conditions of this consent.</p> <p>h) the records in the complaints register required under condition 25.</p>	
13	<p>The consent holder shall carry out a monitoring survey that assesses the effects of the discharge on the seabed in the vicinity of the offshore outfall within 12 months of this consent commencing and at five yearly intervals thereafter. The results of the survey shall be reported to the Council (Manager Resource Use) within 30 working days of completion of the survey.</p> <p>The methods used and parameters measured in relation to the monitoring and surveys undertaken shall be consistent with those reported in “Benthic Effects Monitoring of the Existing Pan-Pac outfall and Baseline Survey for a Proposed New Outfall at sites offshore Whirinaki Beach Hawke’s Bay: 2015 survey, Project No TFN15001, Report No. 15012, June 2015). Valid comparisons shall be made with the baseline survey.</p>	Monitoring
14	<p>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. The list of identified stakeholders shall be approved by Council (Manager Resource Use). The meetings shall be for purposes that may include but not be limited to the following;</p> <p>a) to inform stakeholders of the outcomes of monitoring,</p> <p>b) to review the list of stakeholders referred to above,</p> <p>c) a means for stakeholders to provide feedback to the Council and the consent holder on consent compliance issues,</p> <p>d) 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</p> <p>e) to discuss the investigation and evaluation of alternatives to a coastal discharge of the wastewater authorised by this consent prior to any application being made to renew this consent.</p>	Consultation

	<p>f) promote shared understandings between Mana Whenua (as Kaitiaki) and the consent holder of their respective cultural, social and economic objectives in the context of the discharge authorised by this consent.</p> <p>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.</p>	
15	<p>Within 30 working days of the commencement of discharge from the outfall structure the consent holder shall submit a toxicity testing programme prepared by a suitably qualified expert for approval from the Council (Manager Resource Use). The programme shall be designed and implemented to specifically address potential chronic and acute toxicity of the wastewater to species from at least three trophic levels, and on species showing specific sensitivity to this type of discharge. The testing shall be 6 monthly.</p>	Monitoring
16	<p>The discharge shall not cause any significant adverse effects on the benthic flora and fauna beyond the outfall as determined by the investigations required by condition 13.</p>	Monitoring
17	<p>The consent holder shall sample the treated wastewater at least once each month and test for Chemical Oxygen Demand (COD).</p>	Monitoring
18	<p>The consent holder shall sample the treated wastewater at least once each month and test for Biochemical Oxygen Demand (BOD). Over any 12 month period 95% of samples taken (but excluding samples taken during maintenance periods in accordance with Condition 19) 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 Resource Use).</p>	Monitoring
19	<p>For up to 7 days, a maximum of three times each year, for maintenance purposes, wastewater generated by the Thermo Mechanical Pulp (TMP) process may be treated by only the DAF plant prior to discharge (see Advice Note 1). The BCTMP process must be shut down at these times. During these periods the wastewater shall be sampled and tested for BOD. The limit for BOD in condition 18 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.</p>	
20	<p>The discharge of wastewater shall not cause any of the following effects beyond 150m from the nearest point of the diffuser (the mixing zone):</p> <p>a) The production of any conspicuous oil or grease films, scums or foams, or floatable materials; or</p> <p>b) Any conspicuous change in water colour (hue and brightness) or visual clarity; or</p>	<p>Monitoring</p> <p>This condition is considered appropriate to ensure that adverse environmental effects are monitored and</p>

	<p>c) Any emission of objectionable odour; or</p> <p>d) Any significant adverse effects on aquatic life; or</p> <p>e) A change of the natural temperature of the receiving water by more than 3 degrees Celsius; or</p> <p>f) The dissolved oxygen concentration to be less than 80% of the saturation concentration; or</p> <p>g) Undesirable biological growths.</p>	managed accordingly.
21	<p>For the purpose of condition 20(b) a conspicuous change in water colour is defined as either:</p> <p>a) A change in hue of greater than 10 points on the Munsell colour scale; or</p> <p>b) A change in the reflectance of the water by more than 50%.</p> <p>between water located at the outside of the mixing zone and background water conditions (water not affected by the discharge) as determined in accordance with a suitable scientific method as certified by the Council (Manager Resource Use).</p> <p>This standard is based on Guidelines 2 and 3 of the Ministry for the Environment Water Quality Guidelines (No. 2) for the Management of Water Colour and Clarity (1994).</p>	This is considered an appropriate for monitoring conspicuousness.
22	<p>The consent holder shall undertake an ocean surface monitoring study for at least 12 months following commissioning of the new diffuser authorised by CL140317C and CL140330D for the purpose of determining compliance with the discharge standards that apply under this consent. At a minimum, the study shall include:</p> <p>a) Initial confirmation that the discharge meets the requirements of condition 20(b) through weekly sampling (weather permitting) in the first two months of the discharge commencing;</p> <p>b) An assessment of the plume conspicuousness throughout the year; and</p> <p>c) The taking of images of the sea surface at hourly intervals during daylight hours from an elevated position on the Pan Pac stack.</p> <p>The study shall be in accordance with suitable scientific methods to be developed by the consent holder and certified by the Council (Manager Resource Use) as meeting the purpose of the study set out in this condition. Unless confirmed otherwise in writing by the Council (Manager Resource Use), the scientific methods and their certification will be required prior to the</p>	<p>This monitoring study is expected to have commenced prior to the granting of this resource consent as this is a requirement of the discharge permit CD160286W. s.124 will apply upon expiry.</p> <p>This resource consent (if granted) does not require duplication of this monitoring study.</p>

	installation of the extension of pipeline provided for under this consent commencing.	
23	The consent holder shall notify the Council (Manager Resource Use) at least two working days prior to any maintenance as described in condition 19 is undertaken.	
24	The consent holder shall take all practicable measures to ensure that the period of time that wastewater is discharged in accordance with condition 19 is as short as possible.	
25	<p>The consent holder shall maintain a complaints register to assist in determining compliance with the conditions of this consent. If the consent holder receives a complaint or observes that a condition of this consent has not been met, the consent holder shall:</p> <p>a) immediately take all practicable steps to comply with the relevant condition and,</p> <p>b) immediately notify the Council (within 24 hours); and,</p> <p>c) if requested to do so by the Council, report to the Council, in writing and within 7 days, describing the manner and cause of the non-compliance with the relevant condition, and the response(s) taken under (a).</p>	Best practice
26	<p>The consent holder shall install and maintain signage to make the public aware of the risk of harvesting seafood in the vicinity of the outfall. The consent holder shall ensure that at all times clear and visible signage is placed on the lighted buoys marking the two ends of the diffuser, incorporating the words “Shellfish between buoys and within 150 m radius of the buoys unfit for human consumption”.</p> <p>Advice Note: The consent holder can and should install more than two buoys if necessary for safety and navigational purposes.</p>	For health and safety purposes.
27	<p>The consent holder shall undertake a mussel monitoring study at sites adjacent to the new diffuser as soon as practical following commissioning of the diffuser with the timing of this study to be approved by Council (Manager Resource Use).</p> <p>a) The methods used and sites monitored shall be as per the report “Wilcock, R.J.; Roper, D.S.; Hickey, C.W.; Northcott, G.L.(1991). Environmental studies on effluent discharged from the Whirinaki thermomechanical pulp mill. No. 6028. DSIR report for Carter Oji Kokusaku Pan Pacific Ltd.” submitted with the application. The study should include sites located:</p> <p>a) approximately 50m and 150m north and south of the diffuser;</p> <p>b) at 500m and 1000m north and south, located where benthic survey monitoring is undertaken;</p>	<p>This mussel monitoring study is expected to have commenced prior to the granting of this resource consent as this is a requirement of the discharge permit CD160286W. s.124 will apply upon expiry.</p> <p>This resource consent (if granted) does not require duplication of this monitoring study.</p>

	<p>c) along the pipeline at 500m and 1000m inshore from the diffuser; and,</p> <p>d) at control sites to the north on a suitable offshore reef and south on Pania Reef buoy.</p> <p>b) Measurement of microorganisms in mussels must include a suitable method for faecal coliforms in seafood.</p> <p>c) The physical and biochemical condition of the mussels must be measured at all monitoring sites.</p> <p>d) Prior to undertaking the study, the study design must be submitted to the Council (Manager Resource Use) for approval and be provided to the stakeholder forum to obtain their input and discuss potential participation in the monitoring study.</p> <p>e) A report shall be prepared by the consent holder recording the findings of this study and submitted to the Council (Manager Resource Use).</p>	
28	For the avoidance of doubt, the granting of this consent does not displace any obligations on the consent holder arising under Consent CD160286W, to the extent those obligations would otherwise apply.	Included due to timing of application, expiry and s.124 provisions
29	<p>Within 6 months of this consent commencing, the consent holder shall establish an Environmental Trust to support initiatives that are designed to benefit Hawke Bay and the Hawke's Bay community.</p> <p>The Trustees are to be appointed at the consent holder's discretion, but must include:</p> <ul style="list-style-type: none"> a) Representative(s) from mana whenua b) Representative(s) from the Hawke's Bay community c) Representative(s) of the consent holder. <p>Advice Note: Priorities for funding, and the objectives of the Environmental Trust could include but should not be limited to:</p> <p>1. Mauri of Te Moana Focus on enhancement, restoration and mitigation of the Hawke Bay coastal and ocean environment. This may include research grants related to kaimoana, mahinga kai, fisheries, remediation, cultural & environmental projects.</p> <p>2. Freshwater Focus on enhancement, and restoration of wetlands, lakes, rivers, and streams.</p> <p>3. Land and Facilities Examples include community and social needs, schools, Kohanga reo, Kura Kaupapa Maori.</p> <p>4. Education</p>	This condition has been drafted based on the information set out in Appendix 3 of the AEE. The applicant has advised that the Trust proposal will be further developed following further consultation with submitters prior to the hearing and presented in evidence. This condition may need updating subsequently.

	Facilitate and assist in the environmental education of Hawke's Bay youth.	
Times of service of notice of any review (s.128):		
<ul style="list-style-type: none"> • During the months of February, May, August & November for 2018 and 2019 • During the month of May, of any year from 2020 onwards 		
Review Clause Number	Review Clause	
1	To deal with any adverse effect on the environment which may arise from the exercise of this consent, which it is appropriate to deal with at that time, or which became evident after the date of issue.	
2	To require the adoption of the best practicable option to remove or reduce any adverse effects on the environment.	
3	To modify any monitoring programme, or to require additional monitoring if there is evidence that current monitoring requirements are inappropriate or inadequate	
4	To review the need to set a limit on the total COD or E.coli in the treated wastewater.	
5	To require additional monitoring or other changes to conditions to determine compliance and ensure future compliance with the conditions of this resource consent	

Consent Number: CL1702670

Purpose:

to occupy the coastal marine area with a discharge diffuser, as may be restricted by s12(2) of the Resource Management Act (1991).

Condition Number	Condition	Comments
1	All works and structures relating to this resource consent shall be designed, constructed and maintained to conform to the best engineering practices and at all times maintained to a safe and serviceable standard.	Inclusion of this condition is considered best practice.
2	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. This includes but is not limited to the following: <ul style="list-style-type: none"> a) Plan DR-140707-010 Rev 4 Pan Pac Forest Products Limited Whirinaki Ocean Outfall Extension General Details prepared by CEE Environmental Scientists and Engineers; and, b) Plan DR-140707-016 Rev 3 Pan Pac Forest Products Limited Whirinaki Ocean Outfall Extension Sections and Details prepared by CEE Environmental Scientists and Engineers. 	As above.

	If a conflict arises between any conditions of this consent and the application, the conditions of this consent will prevail.	
3	If the consent holder's pulp mill operation shuts down permanently and/or the outfall discharge is decommissioned, the consent holder shall remove the outfall pipe and diffuser on the sea bed within 1 year and undertake any environmental rehabilitation required to remove or mitigate any adverse environmental effects.	Gives effect to NZCPS
4	A lighted buoy shall be installed at each end of the diffuser (consistent with any relevant marine/navigation requirements or regulations). Advice Note: If necessary for safety and navigational purposes, the consent holder can and should install more than two buoys.	For navigational safety and health and safety purposes
5	The consent holder shall ensure that at all times clear and visible signage is placed on the lighted buoys marking the two ends of the diffuser, incorporating the words "Shellfish between buoys and within 150 m radius of the buoys unfit for human consumption".	For health and safety purposes.
6	The consent holder shall provide to the Council (Manager Resource Use) the map references for the shoreward end of the outfall pipe and seaward end of the diffuser (installed in accordance with CL1602870 and CL140317C) in New Zealand Map Grid and to an accuracy of plus or minus 10 metres. This information shall be provided to the Council (Manager Resource Use) within 2 days of completion installation of the new diffuser. The final co-ordinates shall also be provided to Hawke's Bay Harbourmaster and Land Information New Zealand.	For navigational safety
7	Upon commencement of this consent, the consent holder shall surrender coastal occupation permit CL1602870.	
8	If located through the inspections carried out pursuant to condition 11 of consent CD170262W, the consent holder shall remove the diffuser on the sea bed that was replaced by the structure installed in accordance with condition 2 of CL1602870.	
Times of service of notice of any review (s.128):		
<ul style="list-style-type: none"> • During the months of February, May, August & November for 2018 and 2019 • During the month of May, of any year from 2020 onwards 		
Review Clause Number	Review Clause	
1	To deal with any adverse effect on the environment which may arise from the exercise of this consent, which it is appropriate to deal with at that time, or which became evident after the date of issue.	
2	To require the adoption of the best practicable option to remove or reduce any adverse effects on the environment.	
3	To modify any monitoring programme, or to require additional monitoring if there is evidence that current monitoring requirements are inappropriate or inadequate	



Pan Pac Environmental Trust Concept

23 May 2017

Purpose	Pan Pac recognises we have responsibilities to the community in which our business operates. We acknowledge that while our business activity impacts are compliant with RMA and regional consent conditions those impacts are not zero. In recognition of this, we are proposing that Pan Pac establishes a Trust to provide for broad environmental enhancement purposes.
Trust Name	Kaitiaki Environmental Trust
Trustees	3 x Mana Whenua 2 x Community 2 x Pan Pac
Fund	Up to \$100k per annum
Objectives	<ol style="list-style-type: none">1. Mauri of Te Moana<ul style="list-style-type: none">• Focus on enhancement, restoration and mitigation of the Hawke Bay coastal and ocean environment• May include research grants related to kaimoana, mahinga kai, fisheries, remediation, cultural / environmental projects2. Freshwater<ul style="list-style-type: none">• Focus on enhancement, and restoration of wetlands, lakes, rivers, and streams.3. Land and Facilities<ul style="list-style-type: none">• Examples include community and social needs, schools, Kohanga reo, Kura Kaupapa Maori4. Education<ul style="list-style-type: none">• Facilitate and assist in the environmental education of Hawke’s Bay youth
Funding Policy	Matters to define in trust deed: <ul style="list-style-type: none">• Decision making process• Criteria and priorities• Eligibility
Target Area	As defined in Figure 1 below

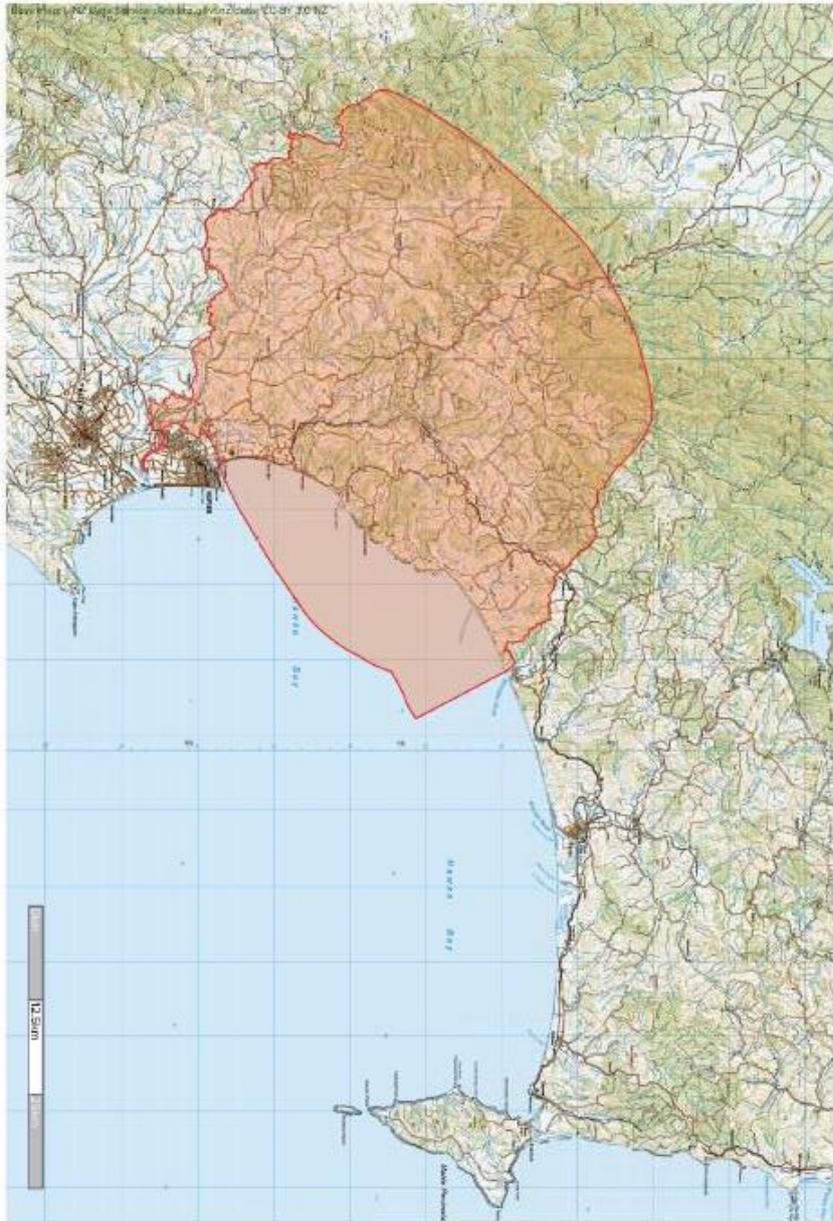


Figure 1: Kaitiaki Environmental Trust Target Area (DRAFT)