

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER OF

applications by Taranua District
Council to Horizons Regional Council
for resource consents associated
with the operation of the Eketahuna
and Pahiatua Wastewater
Treatment Plants, including
earthworks, discharges of treated
wastewater into the Makakahi and
Mangatainoka Rivers and Town
Creek, discharges to air (principally
odour), and discharges to land via
pond seepage at Bridge Street,
Eketahuna and Julia Street Pahiatua

**MEMORANDUM ON BEHALF OF KAHUNGU NI KI TAMAKI NUI-A-RUA IN RESPONSE
TO MEMORANDUM 3 DATED 13 APRIL 2017, AND MEMORANDUM OF COUNSEL FOR THE
APPLICANT, 17 MAY 2017**

21 May 2017

MAY IT PLEASE THE HEARING PANEL:

1. INTRODUCTION

- 1.1. This memorandum is filed on behalf of Kahungunu ki Tamaki nui-a-rua Trust (“the Trust”)
- 1.2. It addresses two matters before this Hearing Panel – the hearing processes with regard to the Eketahuna Wastewater Treatment Plant and the Pahiatua Wastewater Treatment Plant.
- 1.3. The Trust has reviewed Memorandum 3 from the Hearing Panel and Memorandum of Counsel for the Applicant, dated 17 May 2017.
- 1.4. Subsequent to the adjournment of the hearing on 7 April 2017, representatives of the Trust have met with the Mayor, Chief Executive and key Council staff to discuss a range of issues. The nature of that engagement was general and focused mainly on long-term relationships and processes between the two parties. There has been no specific engagement with the District Council or its consultants at any detailed level, in line with the directions of the Hearing Panel following the adjournment of the Eketahuna hearing.

2. EKETAHUNA

- 2.1. The memorandum from Mr Allen for Tararua District Council continues on the path set by the District Council over a long period. Without the benefit of attending the hearing, Mr Allen has belatedly provided legal submissions with respect to matters that were previously addressed directly before the Panel.
- 2.2. The submissions of Mr Allen provide no more certainty with respect to the proposal from the Applicant. There is insufficient design detail, confirmation of land owner consent, assessment of effects, consultation with affected parties, or justification for modification of the original proposal. We are concerned that the application and key elements of the proposal are now so significantly different to the consents originally sought, that the Applicant has placed itself in an irreconcilable position before the Hearing Panel.
- 2.3. Mr Allen’s submissions with regard to section 107 have been directly countered by a number of witnesses before the hearing, including Mr Carlyon, Mr Percy, Ms Morton, Mr Brown and Ms McArthur.

- 2.4. Mr Allen's submissions on uncertainty, reflect a retrospective attempt to address major failings in the application regarding effects on surface water and groundwater. It appears to be a belated attempt to avoid the responsibility inherent upon the applicant to properly assess and respond to cumulative effects in an over-allocated catchment.
- 2.5. It is particularly concerning that Mr Allen draws attention to a breach of natural justice in respect of the Applicant's interests. We draw the Panel's attention to the substantial efforts made by the Trust at significant cost to represent our legitimate concerns before the hearing. We made representations and resourced our contributions in the context of a poorly defined, incomplete application which was significantly amended, even during the hearing process.
- 2.6. The wetland option was not part of the original applications for consent, nor publicly notified, resulting in limited scrutiny by those represented through the hearing process, and no opportunity for input from the rest of the general public. This in itself is a breach of natural justice as those outside of the hearing process are restricted from the decision-making process. This applies equally to the Pahiatua wastewater applications.
- 2.7. We mention again that the applicant has had in excess of 12 years to prepare a comprehensive, detailed application, to trial new technologies and obtain data to support a quality application. Mr Allen has not acknowledged the substantial history of non-compliance and limited action in this space.
- 2.8. With respect to the supplementary evidence of Mr Carlyon and Ms McArthur, this material was provided at the request of the Hearing Panel. The Trust is comfortable that the scope of the material provided was consistent with the further information sought by the Panel, some of which is provided for context. It also accepts that the Panel will adopt whatever elements of that supplementary evidence it requires to assist in its decision-making. It was unfortunate that Dr Ausseil was not present through the evidence in chief, that the District Council did not have legal counsel present to address these concerns at the time that the planner for TDC raised no concerns during the proceedings, and that there were no senior staff present from TDC to see the constructive contribution our witnesses and other submitters made to the proceedings. The position advanced by the Trust before the Hearing Panel is maintained.

3. PAHIATUA

- 3.1. We are not setting out to disrespect the important role of the Hearing Panel with respect to the application for wastewater discharge to the Mangatainoka River by not fully participating in this hearing process. However, many of the issues to be traversed with respect to the Pahiatua discharge have a parallel with the Eketahuna applications.
- 3.2. In summary, the Applicant has a broad, poorly defined proposal, generating significant adverse effects, which on the information and evidence so far provided cannot be avoided, remedied or mitigated.
- 3.3. As was the case with Eketahuna, the Applicant and consent authority have advanced an application which in our opinion, fails to address Part 2 matters, in particular section 6(e). For the Trust it is the cause for significant concern that the Applicant has once again failed to address cultural matters and continues to patronise tangata whenua with proposals to crudely address cultural concerns with poorly thought out treatment options prior to discharging effluent to the Mangatainoka River.
- 3.4. The submission in respect of this application is equally as generous as it was for Eketahuna (attached at Annex 1). That submission was made with the expectation that Council would fill the substantial gaps in its proposal. It has not.
- 3.5. The data provided by the Applicant demonstrates that the characteristics of the influent and effluent are not defined. This view is supported by the Regional Council's own experts.
- 3.6. It is our view that the Applicant needs to make further consent applications in order to undertake the activity proposed. In particular, for the discharge to and from the proposed "wetland" to the Mangatainoka River. A number of witnesses have identified the risks posed to the wetland site from flooding and other witnesses, including Ms Manderson for the Applicant, confirm the very high level of uncertainty with respect to the discharge impacts and proposed monitoring.
- 3.7. We note conditions have been proposed by neither the Applicant or Horizons to include cultural values assessment or cultural health monitoring to help quantify and address

adverse effects of the discharges on Ngāti Kahungunu values or relationships with the Mangatainoka River or related natural resources.

- 3.8. The Trust has substantial concerns about the granting of a resource consent for this discharge in light of significant uncertainty as to physical impacts, including the impact on cultural values at and beyond the site. In addition, the Trust is not providing expert evidence with respect to planning and water quality matters before this hearing. I recognise that it is important to support our original submission and points made therein, however we consider it inequitable for the Trust to utilise its resources for this purpose in light of the above mentioned inadequate application.
- 3.9. Having taken a substantive role in the development of the One Plan and in our district-wide role as kaitiaki, we are disappointed that the consent authority and applicant are advancing a proposal that is so at odds with statutory requirements and commitments made in a number of forums to significantly improve the quality of discharges to the Manawatu awa.
- 3.10. For the sake of clarity, I reaffirm the view expressed in this statement that the Hearing Panel should not grant the consents sought for Pahiatua, in light of the potential significant adverse effects and uncertainty posed by this application.

DATED this 19th day of **May** 2017



Morry Black

On Behalf of Kahungunu ki Tamaki nui-a-rua Trust

Annexure 1: Submission from Kahungunu ki Tamaki nui-a-rua

Submission on the Pahiatua Wastewater Discharge Consent

Applications from Tararua District Council

To:

Manawatu-Wanganui Regional Council,

Private Bag 11025,

Manawatu Mail Centre,

Palmerston North 4442

(Attention Fiona Morton)

Email: consent.submissions@horizons.govt.nz

And

Tararua District Council

C/- Opus Consultants,

PO Box 1472,

Palmerston North 4440

(Attention Tabitha Manderson)

1. Applications:

ATH-199501433.02: Resource Consent Application to discharge treated wastewater to Town Creek and thence to the Mangatainoka River;

ATH-2016200747.00: Consent for the discharge of treated effluent to land via seepage from the operation of the upgraded Pahiatua Wastewater Treatment Plant oxidation ponds; and

ATH-2016200772.00 – A discharge to air permit to authorise the discharge of contaminants to air generated from the upgraded Pahiatua Wastewater Treatment Plant

2. Submitter:

Kahungunu ki Tamaki nui-a-rua Trust

3. Address for Service:

P O Box 97

Dannevirke

4930

(Att: Morry Black)

Phone: 06 374 9224

Mobile: 027 343 5705

Email: morryb@xtra.co.nz

4. Introduction:

Kahungunu ki Tamaki nui-a-rua are a collective who represent the broad interests of the marae, hapū and whānau who affiliate to Ngāti Kahungunu and reside within the Tamaki nui-a-rua (Tararua) District. We operate as a Trust and advocate for the health and well-being of our registered members, their families and associates, and for Māori from other iwi who reside within our traditional rohe (tribal area).

Our Trust vision is –

“To have a thriving community with strong and trusted leadership, building a better future for Kahungunu people, all Māori, all iwi and all peoples within the Tamaki nui-a-rua Rohe”.

There is a growing alignment between the cultural and environmental aspirations of Māori with those of the wider community. This manifests itself in numerous ways including the desire for cleaner waterways so that communities can enjoy their outdoor recreational and cultural pursuits including swimming, fishing and the gathering of kai from our freshwater resources.

5. Statement A:

We **oppose** the applications in their current form; and

We seek the **addition of specific conditions** to the resource consents to accommodate or alleviate our concerns including:

- A condition requiring commissioning and resourcing for Kahungunu ki Tamaki nui-a-rua to carry out cultural health monitoring and assessment of the wastewater discharge and the Mangatainoka River at 2-yearly intervals;
- A requirement for Tararua District Council to carry out dispersion monitoring for the air discharge consent;
- Monitoring of the groundwater below and adjacent to the oxidation pond; and
- The provision of all scientific monitoring data undertaken by or on behalf of Tararua District Council, to Kahungunu ki Tamaki nui-a-rua.

6. Reasons for our opposition:

- The background information supplied in the Assessment of Environmental Effects is not scientifically robust enough to base long-term decisions on;
- The applications do not adequately address or cater for the cultural and spiritual relationships that the hapū of Kahungunu ki Tamaki nui-a-rua have with the Mangatainoka River and its catchment;

- The applications do not include results from or recommend cultural values and cultural health monitoring, whereby the effects of the discharges to surface water or to land, on the cultural values and relationships that our hapū and whānau have with the Mangatainoka River catchment, have been categorised, assessed or addressed;
- The cumulative effects of these discharges and other discharges to the Mangatainoka River have, in our view, not been adequately monitored or assessed;
- Some species that reside in the Mangatainoka are taonga species and classified as “threatened” (koaro, short-jawed kokopu), so their habitat requires more careful management.
- Some data in Table 1 are estimates only, not actual, so have not been measured for accuracy. E.g. Inflow estimates at 550 m³ per day is derived from calculating .220 m³ per person per day. This does not take into account any stormwater infiltration or volume of inflow from other sources.
- There is a significant lack of relevant information on the quality or volume of wastewater entering the pond. We find this rather extraordinary given that the TDC first applied to renew their consent in 2004 – 2006 and in the last 10 years have still not accumulated the necessary data to present in their AEE.
- E.g. “there is insufficient data to draw any conclusions (AEE page 6) and “There is insufficient influent and effluent quality data available to be able to accurately quantify the improvements resulting from the upgrade work undertaken to date (p11).
- This signals that TDC have not established a baseline set of data from which to calculate adequacy or otherwise of their proposed wastewater upgrade treatment.
- The level of permeability for the clay liner on the Pahiatua oxidation pond is also unknown (Combined s92 report, p6).
- The effects on Mauri (as referred to in the Horizons OnePlan) can only be determined by tāngata whenua who are the kaitiaki.

7. Statement B

We wish to be heard at any hearing or pre-hearing convened to consider these resource consent applications.

Signed: _____

For Kahungunu ki Tamaki nui-a-rua

Date: _____