

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER OF

applications for resource consent
(**APP-2005011178.01** and **APP-
2018201909.00**) to Horizons
Regional Council associated with
the construction of a wetland as
part of the proposed upgrades to
and ongoing operation of the
Eketāhuna Wastewater
Treatment Plant

BY

TARARUA DISTRICT COUNCIL

Applicant

**MEMORANDUM OF COUNSEL FOR THE APPLICANT IN RESPONSE TO
THE PANEL'S NINTH MEMORANDUM**

7 November 2018

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MAY IT PLEASE THE HEARING PANEL:

1. INTRODUCTION

- 1.1 This memorandum is filed on behalf of Tararua District Council ("**TDC**"), in response to the Panel's ninth memorandum, received on 29 October 2018.
- 1.2 As the Panel is aware, as part of a broader suite of resource consents sought in relation to the Eketāhuna Wastewater Treatment Plant ("**EWWT**P"), TDC has lodged an application for resource consents associated with the construction of a wetland ("the **Wetland Application**"). The Wetland Application will be heard before the Panel on 27 November 2018 in Pahiatua. The hearing of the balance of the applications relating to the EWWT P took place in April 2017, and currently stands adjourned.
- 1.3 In its eighth memorandum dated 19 October 2018, the Panel confirmed that the scope of the 27 November 2018 hearing would be limited to considering the Wetland Application, and that matters already addressed in TDC's earlier EWWT P application would not be dealt with. The Panel stated at paragraph 9:
- "We will reconvene the hearing to hear first from the applicant, and then the submitter on but only on this additional application for the proposed wetland (**APP-2018201909.00**). The Panel will determine the outcome of the primary application (**APP-2005011178.01**) in conjunction with the additional application after the close of the hearing."*
- 1.4 Since the date of the eighth memorandum, counsel have received:
- (a) the ninth memorandum of the Panel dated 29 October 2018, which poses some questions that are specific to the Wetland Application and other questions that seek an update on matters more directly relevant to the balance of the applications relating to the EWWT P; and
 - (b) Horizons' section 42A reports, which in part address matters directly related to the Wetland Application, and also address matters more directly related to the broader EWWT P upgrades (for example, effects on the Makakahi River).
- 1.5 The Panel's questions and the section 42A reports will be addressed in the evidence to be filed on behalf of TDC. The questions and reports illustrate, however, the complexities associated with the two sets of EWWT P-related applications proceeding in tandem.

1.6 The purpose of this memorandum is to acknowledge those complexities, ensure that the reporting officers and submitter are mindful of the limited scope of the hearing on 27 November 2018, and respectfully suggest a possible process to integrate the information from the two sets of processes in a way that ensures a clear, fair and integrated outcome is ultimately achieved.

1.7 This memorandum will:

- (a) discuss the background to and scope of the Wetland Application and the upcoming hearing; and
- (b) propose a possible pathway for addressing these matters with the ultimate goal being to achieve an integrated outcome for the Wetland Application and the broader suite of applications dealing with the EWWTP upgrades.

2. BACKGROUND TO AND SCOPE OF THE WETLAND APPLICATION

2.1 The wetland concept was first discussed during the lead-up to the first hearing of the Eketāhuna resource consent applications on 5 April 2017. It was introduced as a method for addressing Policy 5-11 in Horizons' One Plan. At the time of that hearing, two alternative options for a proposed wetland were put before the Panel.

2.2 Having heard from TDC's representatives, Manawatu-Wanganui Regional Council's ("**Horizons**") reporting officers, submitters and expert witnesses, the Panel decided to adjourn the hearing on 7 April 2017 to enable TDC to consider how it intended to proceed and to provide further detail as to the proposed wetland.

2.3 On 29 June 2018, following a series of correspondence between TDC and the Panel, TDC filed the Wetland Application, together with various supporting documents.

2.4 In its seventh memorandum dated 12 July 2018, the Panel noted it had decided to give limited notification of the Wetland Application to three parties: Rangitāne o Tamaki Nui-a-Rua ("**Rangitāne**"), Kahungunu ki Tamaki Nui-a-rua ("**Kahungunu**") and the Eketāhuna Golf Club. The Panel's memorandum stated that once those parties had had the opportunity to make submissions, the Panel would decide whether to reconvene the hearing. If the hearing were to be reconvened, the Panel stated it would be limited to hearing only from the Applicant and the affected parties.

- 2.5 On 16 August 2018 Horizons issued a request, under section 92(1) of the Resource Management Act 1991 ("**RMA**") for further information in respect of the Wetland Application. TDC provided its response to this on 21 September 2018.
- 2.6 Following receipt of one submission (from Rangitāne), in its eighth memorandum dated 19 October 2018 the Panel directed that the Wetland Application be heard in Pahiatua on 27 November 2018.
- 2.7 On 29 October 2018, the Panel issued its ninth memorandum which included a number of queries on which the Panel seeks answers from TDC, in relation to the Wetland Application and the broader EWWTP upgrades. These have been put to TDC's relevant technical experts and witnesses who will address the Panel's questions in their respective briefs of evidence.
- 2.8 As discussed above, counsel are conscious of the complexities associated with the two sets of EWWTP applications proceeding in tandem, and the need to ensure that a clear, fair and integrated outcome is ultimately achieved.
- 2.9 TDC is particularly conscious of the need to ensure all relevant parties to each set of applications remain informed of, and able to respond to, issues that affect them.

3. POSSIBLE STEPS FOLLOWING THE UPCOMING HEARING

- 3.1 Counsel propose that the next steps, in the context of both the Wetland Application and the wider EWWTP upgrades, be discussed at the 27 November 2018 hearing.
- 3.2 One suggested approach for the Panel and parties to consider, however, is as follows:
 - (a) Following the conclusion of hearing of the Wetland Application on 27 November 2018 (but prior to TDC's reply being filed), a document would be prepared that would update the parties to the applications on the broader EWWTP upgrades on any matters arising from the Wetland Application that affect or relate to the broader EWWTP upgrades. Subject to the Panel's views, this could be a document prepared by TDC, which includes matters such as:
 - (i) the Panel's questions, as set out in its eighth memorandum;
 - (ii) TDC's response to those questions;
 - (iii) an updated set of conditions; and

- (iv) any other matters.
- (b) That document would be provided to all parties to the applications on the broader EWWTP upgrades for comment within a specified timeframe.
- (c) TDC would then provide its reply, in one integrated document, in relation to both the earlier EWWTP applications and the Wetland Application.
- (d) Assuming the Panel had all the information it required, at that stage, to determine all the applications before it (ie the Wetland Application and the broader suite of applications), the Panel would then close both hearings and issue its decision in relation to all the applications.

3.3 Counsel look forward to discussing these matters with the Panel at the upcoming hearing.

DATED this 7th day of November 2018



David Allen / Esther Bennett
Counsel for Tararua District Council