BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of **APP-2005011178.01** and **APP-2018201909.00** for resource consents associated with the operation of the Eketāhuna Wastewater Treatment Plant, including construction of a wetland, diversion of water, construction of a bund, a discharge into the Makakahi River, a discharge to air (principally odour), a discharge to land via pond and wetland seepage, Bridge Street, Eketāhuna

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REPORT TO THE COMMISSIONERS

DR BRENT COWIE (CHAIR), MR REGINALD PROFFIT AND MR PETER CALLANDER

SECTION 42A SUPPLEMENTARY REPORT 2 OF FIONA MORTON - PLANNING

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5 November 2018

CONTENTS

A. INTRODUCTION

Qualification and Experience

1. My name is Fiona Janet Morton.

2. I am contracted to the Manawatū-Wanganui Regional Council (Regional Council) in the position of Senior Consents Planner.

3. My qualifications and experience as detailed in my evidence pertaining to the primary Eketāhuna application **APP-2005011178.01** (dated 7 March 2017) are unchanged and so are not repeated here.

Background

4. **APP-2005011178.01** was lodged on 1 April 2015 by Tararua District Council (the Applicant). This application was lodged three months prior to Consent 103346 expiring (1 July 2015). Under s124(2)(e), the consent holder (Tararua District Council/TDC), can continue to operate at the discretion of the Regional Council. While there is no 'formal record' of this discretion being granted, the Regional Council accepted the application (and deposit), and commenced processing of the application.

5. A hearing was held on the above application on 5 to 7 April 2017.

6. At that initial hearing the Applicant presented a "Proposal" to provide additional treatment to the present wastewater discharge. This included a clarifier and UV treatment of the discharge. They modified the term sought in the original application of 20 years to a term of seven years: one year to collect further information to characterise the discharge, three years to design, build and optimise the proposed treatment, and three years to monitor the effects of the upgraded discharge on the receiving environment of the Makakahi River.

7. The Applicant continues to propose to install the package treatment plant to provide significant additional treatment of the discharge of wastewater to the Makakahi River. The effects of that discharge were detailed at the original hearing of **APP-2005011178.01**.

8. The hearing was reconvened on 23 May 2017, when the Applicant sought additional time to investigate additional treatment of the wastewater, likely via a wetland located close to the river on land owned by the local golf club. This was primarily to endeavour to meet cultural concerns about the discharge, and to enable consistency with Policy 5.11 of the One Plan.

9. Prior to adjournment, the Panel noted that it would be helpful if CVAs by Rangitāne and Kahungunu could be included with the additional resource consent applications required for the Proposal.

10. The new application **(APP-2018201909.00)** was lodged on 29 June 2018 and sought consent for earthworks, land seepage and diversion of flood flows, all associated with the construction of a wetland on the Eketāhuna Golf Course. A term of seven years for APP-2018201909.00 was sought.

Relevant Information

11. This report is to be read in conjunction with the s42A reports prepared by Mr Tim Baker (Consultant Groundwater Scientist to the Regional Council), and Mr Logan Brown (Freshwater and Partnerships Manager, Horizons Regional Council). Included in this report are two appendices which are relevant to the assessment of this application. This includes a memorandum from Greg Bevin (Regulatory Manager, Horizons Regional Council) dealing with the potential earthworks construction effects associated with the wetland and Jon Bell (Manager Investigations and Design, Horizons Regional Council) dealing with potential flood flow effects associated with the diversion bund and outlet structure.

12. In preparing this report I have considered:

    a. The Assessment of Environment Effects (AEE) which accompanied APP-2018201909.00; and

    b. The further information provided in September 2018 received via email in response to the Regional Council s92 request.

13. I have considered the submission received from Rangitāne o Tamaki nui a Rua Inc. on the application as well as the relevant resource management matters which are required to be considered by a consenting authority in relation to APP-2018201909.00.

B. OUTLINE OF EVIDENCE

14. In my report I have provided the following:

    a. A description of the activity;
    b. An outline of the consenting background;
    c. An outline of the limited notification process;
    d. A summary of the matters raised in the submission;
    e. An assessment of the relevant section 104 matters including:
        i. An assessment of the environmental effects associated with the ongoing effects of the activity,
        ii. An assessment of the relevant National Environmental Standards, National Policy Statements, Regional Policy Statement and Regional Plans (namely the One Plan);
        iii. An analysis of Part 2 of the Resource Management Act 1991 as it relates to the application.

15. This report provides an analysis of the relevant plans and policy documents, as well as an interpretation of those where required. It also includes discussion on the effects associated with the activity, and an assessment of the submission received.

16. In accordance with section 42A (1A) and (1B) of the RMA, I have minimised the repetition of information included in the application and where I have considered it appropriate, adopted that information.

C. THE SITE AND SURROUNDING AREA

17. This information is detailed in the application lodged with the Regional Council on 29 June 2018. It builds on the information detailed in the original application. This information is considered to accurately represent the site and accordingly is adopted.

18. Following the construction of the wetland the receiving environment and the discharge itself will be to the Makakahi River. This area falls within the Makakahi (Mana_18d) sub-zone. This is a water management sub-zone of the Mangatainoka (Mana_8) water management zone.

Figure 1: Proposed wetland location

D. THE ACTIVITY

19. On 29 June 2018, the applicant sought consent (APP-2018201909.00) from the Regional Council to undertake the following activities:

ATH-2018202078.00 This land use consent is to authorise bulk earthworks associated with the construction of a wetland on the lower terrace of the Eketāhuna Golf Club, in relation to the Eketāhuna Wastewater Treatment Plant.

ATH-2018202081.00 This discharge to land permit is to authorise the discharge of tertiary treated effluent to land via seepage from the unlined portion of the wetland.

ATH-2018202080.00 This land use consent is to authorise the construction of a bund within an area with a value of flood control and drainage associated with the construction of a wetland.

ATH-2018202079.00 This water permit is associated with the diversion of water and flood-flows around the bund and into the Makakahi River.

20. A term of 7 years was sought for all consents in the application.

21. This application is in addition to, but is intended to work in conjunction with APP-2005011178.01 which was the subject of the hearing on 5-7 April 2017.

E. NOTIFICATION

22. The Regional Council delegated authority to the Hearing Commissioner's pursuant to s34 of the Act to determine the notification requirements for APP-2018201909.00.

23. On 12 July 2018, and documented in Panel Minute No. 6, the Panel determined that the application should be notified on a limited basis to the following parties:

    a. Rangitāne o Tamaki nui a Rua Inc;

    b. Kahungunu ki Tamaki nui-a-rua; and

    c. Eketāhuna Golf Club.

24. The above parties were notified on 12 July 2018, with submissions closing on 13 August 2018.

F. SUBMISSION

25. At the close of the submission period one submission had been received from Rangitāne o Tamaki nui a Rua Inc.

26. The table below briefly notes the issues raised in the submission.

Table 1: Summary of Rangitāne o Tamaki nui a Rua Inc's submission

No.	Issues/Concern	Relief requested
1.	The application does not provide an assessment against Section 6(e) of the Resource Management Act (states that there are not matters of national importance relevant to the application), nor an assessment against the objectives and policies of the One Plan that are relevant to cultural and Māori relationship values.	A. That the application is declined; Or B. That a comprehensive assessment of effects on the environment is prepared, including assessment of cultural and natural character effects, and the processing of the application is paused until that information has been provided, and C. That the Applicant provides information, based on consultation with Rangitāne, on what outcomes are required to be met as part of a wastewater discharge solution in order to address adverse effects on cultural values, mauri, and Rangitāne's relationship with the environment, and thereafter provides an evaluation of the options to achieve those outcomes; and D. The proposed activity is amended and/or conditions of consent are imposed to avoid, remedy or mitigate adverse effects on the environment, including adverse effects on Rangitāne's relationship and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and E. If resource consent is granted, that it is for a term of no more than 5 years.
2	No assessment of the effects of the development on the natural character of the Makakahi River and its margins (s6 (a) Matter of National Importance), which is particularly relevant given the proposed wetland is within the river's floodplain and artificial bunds to divert flood flows are proposed.	
3	No assessment the effects of the discharge as modified by passing through the proposed wetland.	
4	Insufficient detail about the design of the proposed wetland, including the ratio of contaminants that will pass through the base of the wetland versus flowing across the wetland, to allow for a reasonable assessment of the effectiveness of the wetland in treating contaminants.	
5	The application does not meet the requirements of Schedule 4 of the Act, in particular Clauses 2(1) (f) and (g).	

G. ASSESSMENT – SECTION 104

27. The provisions of Section 104 of the Resource Management Act 1991 (the Act) must be considered by the Hearing Commissioners in making a decision on the resource consent application. Section 3, page 13 of the application sets out some of the relevant provisions that require assessment. The matters contained in Section 104 that in my opinion are of relevance to the application include:

104(1)a. **Actual and potential environmental effects.** An assessment of the environmental effects is provided by the Applicant and in the section 42A report prepared by Messrs Brown and Baker. In addition, appendix 2 and 3 of this report include the Technical Memorandum received from Mr Bevin and Mr Bell in relation to this application. In the following paragraphs I consider the findings of both the AEE and the s42A technical reports and memoranda in concluding my overall assessment of the actual and potential ongoing effects of the activities. This assessment is given in Section H of my report.

b.(i) **National Environmental Standards.** Not relevant to this application.

b.(ii) **Other regulations.** There are no other regulations that I am aware of which would be considered to be relevant to authorising the ongoing effects associated with this activity.

b.(iii) **Relevant National Policy Statements**. The National Policy Statement for Freshwater Management was addressed at the hearing for APP-2005011178.01 and has not been revisited here.

b.(iv) **New Zealand Coastal Policy Statement.** Not relevant to this application.

b.(v) **Relevant Regional Policy Statement**. The Applicant's assessment of the relevant Objectives and Policies of the Regional One Plan Policy Statement is given in Section 3.2.1, pages 15-17 of the AEE. Section J of my report expands on these provisions.

b.(vi) **Relevant Regional Plan.** The Applicant's assessment of the relevant Objectives and Policies of the Regional One Plan is given

in Section 3.3.2, pages 28-29. Section K of this report expands on the Applicants' assessment.

(c) **Other Matters the Consent Authority Considers Relevant.** No further matters for this application are considered relevant.

H. S104(1)(A) ACTUAL AND POTENTIAL EFFECTS

28. Part 1, Section 3 of the Act encompasses a broad definition of what constitutes environmental effects. The Act requires the consideration of both **actual effects** and **possible future effects**. Potential cumulative effects on the environment must be taken into account. In addition, consideration must be given to any potential effect of high probability and any potential effect of low probability which has a high potential impact.

29. The following are considered to be the actual and potential effects that require evaluation:

a. Effects on ground and surface water from potential seepage from the unlined wetland;

b. Flood control and drainage;

c. Sediment and erosion effects (wetland construction); and

d. Effects on cultural values.

Actual and Potential Adverse Effects

Surface Water Quality

30. Mr Brown's report provides a synopsis of water quality matters relating to the monitoring programmes undertaken by the Regional Council.

31. The report covers the discharge quality and wetland function, ongoing maintenance and function of the wetland, Ammoniacal-n vs nitrate-N and periphyton growth, nutrient limitations in the Makakahi River, possible monitoring locations post wetland construction and function as well as cumulative effects. Water quality is not directly relevant to APP-2018201909.00, but has been revisited in order to update the Panel of water quality in the Catchment.

32. Mr Brown's report indicates a need for additional matters to be addressed in the Wetland Management Plan including how the formation of preferential flow paths will be prevented within the wetland and if preferential flow paths do develop the process that will be followed to overcome the problem, fencing to prevent stock access and further monitoring to be undertaken to inform the monitoring of the effectiveness of the wetland, and actions that will be undertaken should the wetland not perform as designed.

33. His report also recommends that measures be undertaken to reduce infiltration and inundation (I&I) entering the wastewater network. This will ensure that overtime, the wetland has the ability to treat more of the flows it receives during rainfall events.

34. It is Mr Brown's view that the monitoring of the wetland is of vital importance to measure what reduction in nitrate occurs as a result of the installation of the wetland. It is also important to ensure that over time, the wetland does not start to underperform. To facilitate this, conditions have been recommended to monitor the discharge prior to the wetland, as well as prior to discharging to the River. This monitoring should be undertaken on a monthly basis and at the same time as the in-river water quality monitoring is undertaken. The monitoring should be for the same parameters that monitored for in the current monitoring programme.

Groundwater/Wetland interface

35. Mr Baker notes that the treatment wetland will be used for polishing; further treating the wastewater after it has passed through the oxidation ponds and the UV disinfection system prior to discharge to the river.

36. The treatment wetland will be constructed on this terrace and surrounded by bunds between 1.3 m and 2.5 m high, designed to protect the wetland from flood events.

37. Groundwater is present in the alluvium beneath the terrace. He considers that should the wetland allow vertical migration of treated wastewater (i.e. leakage) there is the potential for the groundwater contained in the lower terrace to become contaminated, and it is likely that this will enter the river.

38. The s92 response considers that an acceptable loss from the base of the wetland would be in the order of 10% of inflow. To ensure no more than 10% leakage, he agrees with the applicant that a liner (likely to be clay) with a hydraulic conductivity of no greater than 1.4 x 10^{-7} m/s should be installed in order to achieve the desired permeability of the liner material. The 1.4 x 10^{-7} standard is a lower threshold that the permitted activity baseline in the One Plan (2016) of 1 x10^{-9} m/s. This is because the treatment wetland is designed to seep.

39. The recommendations from Mr Baker have been included in the attached set of conditions.

APP-200511178.01 Pond Seepage Comment

40. The original suite of conditions required that all wastewater treatment ponds must have a lining with a permeability not exceeding 1 x10^{-9} m/s. I am unclear if the Applicant intends to pursue the lining of the treatment ponds. The recommended conditions reflect this uncertainty. Should the applicant not pursue lining of the ponds, Mr Baker has recommended that one up-gradient and two down-gradient monitoring wells be installed, with groundwater monitoring of analytes on a six monthly basis.

Effects on cultural values

41. A cultural values assessment (CVA) has been undertaken by Kahungunu ki Tāmaki nui-a-Rua (Kahungunu) and was included as part of the application. Kahungunu were directly notified of the application but chose not make a submission. They remain a submitter on **APP-2005011178.01**.

42. Rangitāne were the other iwi directly notified of this application **(APP-2018201909.00).** It is clear from their submission that they perceive that a negative cultural impact and an adverse effect on the mauri of the awa remains.

43. The submission from Rangitāne details that they consider that an adverse cultural effect remains as a result of the discharge, as using the awa as the receiving environment of human wastewater is inherently abhorrent to iwi.

44. The applicant was encouraged to engage with Kahungunu and Rangitāne by the Panel in order to address cultural concerns. Kahungunu provided a CVA, and chose not to submit on the application. It would be helpful if the applicant could

address the process of engagement undertaken in their s41B report with both Kahungunu and Rangitāne.

Soil disturbance effects

45. The effects associated with the earthworks required for the construction of the wetland include:

    a. Location, nature, scale and timing of the activity;

    b. erosion and sediment effects,

    c. soil conservation and stability; and

    d. potential adverse effects on watercourses.

46. The draft erosion and sediment control plan (ESCP) included with the supplementary application has been reviewed by Mr Greg Bevin – Regulatory Manager for the Regional Council.

47. He notes that the works are:

    - To occur on land located North of the existing WWTP, which owned by Eketāhuna Golf Club;
    - Anticipated to take approximately 2 months (1 February to 31 March 2019);
    - Are located close to the Makakahi River;
    - Will include a total area 7,200m^2, with of 5,200m^2 being the size of the proposed wetland and the additional areas including berm formation and construction access; and
    - 2800m^3 of earthworks, with 800m^3 and 2000 m^3, being used as fill and cut to waste, respectively.

48. He has assessed the site against the Regional Council's risk matrix. This matrix looks as various factors, including duration of works, location to waterways, soil type and slope angle, to determine the risk the proposed activity represents to the receiving environment, which in this case is the Makakahi River.

49. Mr Bevin considers that the site is **medium** risk for the following reasons

a. Makakahi River has the values including aesthetics, trout fishery and spawning and, mauri [1] and therefore is considered to be of Medium to High[2] value as per the matrix (contained in Appendix 2).
b. The works are for approximately 8 weeks;
c. The area exposed is 7200 m^2. However it is noted that the USLE details an area of 0.61ha;
d. The Universal Loss Equation (USLE) assessment undertaken by the applicant (Appendix A) indicates the sediment yield for the proposed works, with appropriate controls in place, will be approximately 0.25 tonnes during the course of the project;
e. Slope is approximately 0.01% and 25% (based on information in the USLE) for the pond and berm areas, respectively;
f. The Makakahi River is approximately 20 metres from the proposed works; and
g. The soils on-site are alluvial in nature and the texture class of soils appear to be predominately sandy silts.

50. The main controls proposed by the applicant are:

a. The use of silt fences and clean water diversions;

b. Using the construction area of the wetland as a detention area, with a Decanting Earth Bund (DEB) at the northern end;

c. The use of U-Shaped Sediment Trap (UST) to intercept and treat and inadvertent discharge from construction traffic.

d. Stabilisation of pond batters with geotextile material; and

e. Limiting the exposed area to an area of no more than 0.2ha at any stage.

[1] As detailed in Logan Brown's primary evidence, dated 7 March 2017.

[2] In Mr Brown's evidence he notes the Makakahi is, in addition to the values identified above, an important waterbody for the migration of short jaw kokopu into the head waters of Bruce stream and Makakahi River itself. Mr Brown's evidence also notes that some of fish species within the Makakahi River are considered threatened and are contained within the New Zealand threat classification system

51. While Mr Bevin is satisfied that the proposed ESCP methods are appropriate for the site he has identified some matters which will need to be addressed by the applicant's s41B report, namely:

a. The actual area of earthworks needs to be confirmed. The application states a total area of 7200m^2, whilst the USLE is based on 6100m^2 (0.61ha);

b. A DEB is proposed to treat run-off from the wetland constructed area. The area associated wetland itself is 5200m^2, however the plan states the DEB catchment is 2500 m^2. It is unclear how TDC are to ensure the catchment will remain at 2500m^2 during construction of the wetland. For example, is the construction to be staged that will see 2500m^2 disturbed and then stabilised before works commence on the remaining 2500m^2. If this is the case TDC need to detail how cleanwater from the stabilised catchment/stage does not enter the DEB.

c. The inlet and outlet of the DEB need to be confirmed to demonstrate the DEB will not be short circuited;

d. The design specifications of the DEB need to be confirmed. For example best practice now requires the DEB to have a T-bar decant with a 150 primary spillway (or riser) and the decant rate should be 0.3 litres/ second/ 1000m^2 (or 3 litres/second/hectare)[3].

e. It is unclear whether the cleanwater diversions meet the design criteria of the guidelines.

f. Guidance needs to be provided as to what is considered a minor change as opposed to a major change in regards to the ESCP.

g. The ESCP recommends the use of a UST. Information is provided on the UST. From the information it is important to note a UST is limited in what it can treat. For instance it is not recommended for fine sediments and is only appropriate for very small areas (e.g. minor drainage swales and roadside table drains). It is unclear from the information provided as to the area the UST will be treating or the slope of the catchment. Both these matters need to

[3] Refer to the document titled **"Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region"**, June 2016, Guideline Document 2016/005, prepared by the Auckland Council, page 117-118

be confirmed to assess whether a UST is an appropriate control device as opposed to using a DEB.

h. The primary control for managing sediment loss from the berms (in addition to stabilisation) appears to be the use of silt fences. The draft includes a generic guide on silt fence installation from an unreferenced source, but the plan is silent on how silt fences will installed and subsequently maintained on this specific site. For example the fences should be checked for damage (rips, tears, outflanking, undercutting etc.), sediment should be removed when bulges occur or when sediment accumulation reaches 20% of the fabric height

52. Following the clarification of the above matters, and further assessment from Mr Bevin, I should be in a position to provide a final recommendation to the Commissioners at the hearing. I have included some indicative conditions from other earthworks consents at the end of **Appendix 1** which provide an example of the standard types of conditions used for works such as these.

Flood Control and Drainage effects

53. The potential environmental effects associated with the construction of the bund on the One Plan value of Flood Control and Drainage has been assessed by Mr Jon Bell, Manager River Engineering. His full technical assessment is included as **Appendix 3** to this report.

54. Mr Bell identifies the following issues associated with the construction of a diversion bund at the wetland:

a. Potential adverse effects (increase) on flooding; and

b. Potential increased erosion or scour adverse effects.

55. Mr Bell notes that the two main areas requiring consideration are whether the works will increase flood risk to any other area, and will the works alter flood flows that may lead to erosion or scour problems developing anywhere else.

56. He notes that the report prepared by the applicant (Application Appendix IV) identifies that the proposed bund would lead to higher water levels (up to 0.5m) over a short reach at the upstream end of the bund. However, the report illustrates, that due to the natural topography of the river corridor there will not be

a greater area of land inundated during a 1% AEP flood event than would currently be seen.

57. The report also identifies that any potential velocity increase will be restricted predominantly to the centre of the main channel. He views these potential changes as small.

58. He has reviewed the technical detail contained in Application Appendix V – Wetland Outlet Sizing. He notes that the sizing of the outlet is something that is a design consideration in terms of the operation of the wetland itself, and as such it is something for the applicant to be happy with, and not something that we would be concerned about from a river management perspective.

59. Based on the information provided in the application, Mr Bell considers the impact of the proposed bund to be less than minor.

60. I also note that page 29 of APP-2018201909.00 states that the outlet structure and design of the wetland will be such that retention in the wetland will be more than 72 hours under average conditions.

I. RELEVANT NATIONAL POLICY STATEMENTS

National Policy Statement for Freshwater Management

61. Section 104 requires consideration of National Policy Statements that are relevant. The National Policy Statement for Freshwater Management was addressed at the hearing for APP-2005011178.01 and has not been revisited here.

J. REGIONAL ONE PLAN POLICY STATEMENT

62. Section 104(b)(i)(v) of the RMA requires consideration of a Regional Policy Statement (RPS), in this case part one of the One Plan. The applicant has provided an assessment of the RPS in the application[4]. While I broadly agree with the objectives and policies identified, I have widened the assessment to include all the objectives and policies that I consider relevant. Rather than repeat the objectives and policies, I have provided commentary of the relevant

[4] Application, Section 3.2.1, Page 15

objectives and policies below and the full text of the provisions are contained within **Appendix four.**

63. Minor changes were made to the One Plan through Plan Change 1, which came into effect from 28 April 2016. The plan change inserted a new policy (Policy 14-9) and consequential amendments required by Policy the National Policy Statement for Freshwater Management (NPSFM). It also provided the opportunity to correct a number of minor errors that have been identified since the One Plan became operative. Further amendments came into effect on August 2018 following Plan Amendment 1. This amendment was to reflect the National Environmental Standards for Plantation Forestry (2017). This amendment does not affect any the activities contained in APP-2018201909.00.

64. This application was lodged in June 2018. Therefore the correct planning instrument in respect of the activity status and assessment of objectives and policies is One Plan (2018) – Plan Change 1 and Amendment 1.

Chapter 2 – Te Ao Maori	
Objective	**Policy**
Objective 2-1: Resource Management	Policy 2-1: Hapū and iwi involvement in resource management Policy 2-3: The mauri of water Policy 2-4: Other resource management issues.

65. Policy 2-1 provides some direction in respect of *Hapū** and *iwi** involvement in resource management, including:

> c. development of catchment-based forums, involving the Regional Council, *hapū**, *iwi**, and other interested groups including resource users, for information sharing, planning and research,
>
> d. development, where appropriate, of *hapū** and *iwi** cultural indicator monitoring programmes by the Regional Council, and…
>
> ….

i. the Regional Council advising and encouraging *resource consent*^ applicants to consult directly with *hapū** or *iwi** where it is necessary to identify:

(i) the relationship of Māori and their culture and traditions with their ancestral *lands*^, *water*^, *sites**, *wāhi tapu** and other *taonga** (including *wāhi tūpuna**), and

(ii) the actual and potential adverse *effects*^ of proposed activities on those relationships.

66. Policy 2.3 is very directive and requires the Regional Council to have regard to the mauri of water by implementing Policy 2-1(a) to (i).

67. Under Policy 2.4 specific resource management issues identified as being significant are set out. This is not intended to be an exhaustive list. Policy 2-4 (a) which relates to the management of water quality in the Region and Policy 2.4(d) relates to access to and availability of clean water to exercise cultural activities is also considered.

68. There is a preference to have the discharge removed from the River, or at the very least to assess alternative disposal options (e.g. land). Based on the submission received and the issues identified within them, I do not consider that the proposal is fully consistent with the above Objective and Policies.

69. This submission of Rangitāne o Tamaki nui a Rua considered that the application does not adequately address or cater for the cultural and spiritual relationships that the Rangitāne has with the Makakahi River and its Catchment.

70. Further evidence provided at the hearing from Rangitāne may help with further assessing this objective and supporting policies.

Chapter 3 – Infrastructure and Energy	
Objective	**Policy**
Objective 3-1: Infrastructure and other physical resources of regional or national importance	Policy 3-1: Benefits of infrastructure and other physical resources of regional or national importance Policy 3-3: Adverse effects of infrastructure and other physical resources of regional or national importance on the environment

71. The application has identified the above objective and policy as being relevant to the Eketāhuna WWTP. I agree that these provisions are relevant and should be considered. Policy 3-1 clause (viii) specifically lists public or community sewage treatment plants and associated reticulation and disposal systems as infrastructure of regional importance. The focus of these Objectives and Policies require recognition of regionally important infrastructure and the role they play in servicing communities.

72. Policy 3-3 (a) is relevant insofar as the Regional Council must recognise and provide for the operation, maintenance and upgrading of all such activities [infrastructure of regional importance] once they have been established.

73. I consider that the application is consistent with the provisions of this chapter.

Chapter 4 – Land	
Objective	**Policy**
Objective 4-2: Regulating potential causes of accelerated erosion	Policy 4-2: Regulation of land use activities

74. Chapter 4 of the One Plan seeks to ensure that the potential for adverse effects associated with accelerated erosion, which can be exacerbated by activities such as vegetation clearance, land disturbance, forestry and cultivation are managed. This is achieved by Objective 4-2 and Policy 4-2.

75. If undertaken in accordance with appropriate conditions of consent imposed, which should include a certified ESCP, the earthworks activity in order to construct the wetland should not give rise to any increase of accelerated erosion at that site.

Chapter 5 – Water	
Objective	**Policy**
Objective 5-4: Beds of Rivers and Lakes	Policy 5-22: General management of the beds of rivers and lakes

76. The assessment above is constrained to the relevant objectives and policies associated with the construction of the wetland bund. I agree with the objectives and policies identified in the application (section 3.2.1).

77. Subject to the adherence to appropriate conditions of consent, I consider that the application is consistent with this objective and policy.

Additional comment on Policy 5-11

78. The applicant have specifically applied for this consent in order to address the concerns of iwi and to meet the requirements of Policy 5-11.

79. Policy 5-11 is a pivotal policy in respect of WWTP discharges.

80. Policy 5-11 reads

> **Policy 5-11: Human sewage *discharges*^**
>
> Notwithstanding other policies in this chapter:
>
> (a) before entering a surface *water body*^ all new *discharges*^ of treated human sewage must:
>
> (i) be applied onto or into *land*^, or
>
> (ii) flow overland, or
>
> (iii) pass through an alternative system that mitigates the adverse *effects*^ on the *mauri** of the receiving *water body*^, and
>
> (b) all existing direct *discharges*^ of treated human sewage into a surface *water body*^ must change to a treatment system described under (a) by the year 2020 or on renewal of an existing consent, whichever is the earlier date.

81. Clause (b) of this policy redirects any renewal application (such as this), to achieve one of (i), (ii) or (iii) of clause (a). Therefore in order to be consistent with this policy the discharge needs to **either** be applied onto or into land (i), or flow overland (ii), or pass through an alternative system that mitigates the adverse effects on the mauri of the receiving water body (iii). This policy is to be achieved at the time the consent is renewed.

82. It is my view that this application addresses this policy and specifically the application is consistent with Policy 5-11 (a)(ii).

83. Based on the submission from Rangitāne I do not consider it meets Policy 5-11 (a)(iii).

84. The policy does not require an applicant to meet all three limbs of the policy. As this application achieves the requirements of Policy 5-11 (a)(ii) this application

provides for, in the wider context, a pathway for APP-2005011178.01 to be consistent with the requirements of Policy 5-11.

K. REGIONAL ONE PLAN

Relevant Objectives and Policies

85. Of the chapters in the Regional Plan, it is Chapter 13 (land disturbance associated with the wetland construction), Chapter 14 (wetland seepage), Chapter 16 (diversion), and Chapter 17 (Activities in Artificial Watercourses, Beds of Rivers and Lakes, and Damming) which require consideration.

Chapter 13 – Land	
Objective	**Policy**
Objective 13-1: Accelerated erosion - regulation of vegetation clearance, land disturbance, forestry and cultivation	Policy 13-1: Regional rules for vegetation clearance, land disturbance, forestry and cultivation Policy 13-2: Consent decision-making for vegetation clearance, land disturbance, forestry and cultivation

86. Objective 13-1 seeks to ensure that structures and activities are undertaken in a manner that ensures that accelerated erosion and the resultant increased sedimentation in water bodies is avoided as far as reasonably practicable

87. Policy 13-1 is a directive policy which directs the Regional Council to have a regulatory framework in place to manage these types of activities. The Regional Council has given effect to this Policy via Rule 13-2. Policy 13-2 provides decision making guidance when making a recommendation on whether consent should be granted, and what mitigation should be imposed.

88. In respect of the wetland construction and bund diversion earthworks, I am satisfied that the application is consistent with the above objective and policies.

Chapter 14 – Discharges to Land and Water	
Objective	**Policy**
Objective 14-1:Management of discharges to land and water and land uses affecting groundwater and surface water quality	Policy 14-1: Consent decision-making for discharges to water

89. Objective 14-1 and Policy 14-1 require consideration in relation to the partial ground seepage from the leaky wetland. Objective 14-1 seeks to manage discharges and land use activities in a manner which safeguards the life supporting capacity of water and provides for the Values associated with waterbodies, provides for the objectives and policies of Chapter 5 and avoids, remedies or mitigates adverse effects of discharges to land and water on surface or groundwater.

90. The supporting Policy 14-1 sets out what needs to be considered when making decisions including an assessment against the objectives and policies of Chapter 5. The assessment of Chapter 5 was completed earlier in this report and so is not repeated here.

91. Although APP-2005011178.01 is not the subject of this hearing, following on from the adjournment of the original hearing, I am unclear if the Applicant intends to line the wastewater storage ponds. If this matter could be clarified it will assist with recommending the appropriate conditions. If the wastewater storage ponds remain unlined then groundwater monitoring bores will be required (one up gradient, two down-gradient).

Chapter 16 – Takes, Uses and Diversions of Water, and Bores	
Objective	**Policy**
Objective 16-1: Regulation of takes, uses and diversions of water	Policy 16-3: Consent decision-making for diversions and drainage

92. Objective 16-1 and Policy 16-3 require consideration in relation to the diversion of flood flows around the bund. The diversion will only occur during higher flows, resulting in the diversion of water and flood-flows around the bund and into the Makakahi River.

93. The wetland is not within a rare, threatened or at-risk habitat, and should not adversely affect any other lawful activity. I consider that any adverse effect on the natural character of the Makakahi River as a result of the diversion is less than minor.

94. It is my view that the diversion of flows around the bund and wetland is consistent with this policy.

Chapter 17 – Activities in Artificial Watercourses, Beds of Rivers and Lakes, and Damming	
Objective	**Policy**
Objective 17-1: Regulation of structures and activities in artificial watercourses and in the beds of rivers and lakes, and damming	Policy 17-1: Consent decision-making for activities in, on, under or over the beds^ of rivers and lakes (including modified watercourses but excluding artificial watercourses)

95. I agree with the objectives and policies assessment contained in the application document and have not discussed them further. The technical certification required, as part of the recommended conditions of consent, of the diversion bund and discharge structure design plan and the Erosion and Sediment Control Plan, will ensure that the activity is consistent with best management practices.

96. The final chapter that requires consideration is Chapter 12 – General objectives and policies.

Chapter 12 – General objectives and policies	
Objective	**Policy**
Objective 12-2: Consent duration and review	Policy 12-4: Consent conditions Policy 12-5: Consent durations

97. Chapter 12 sets out general objectives and policies, Policy 12-4 deals with the imposition of consent conditions and Policy 12-5 deals with consent durations.

98. The applicant has sought a term of seven years for APP-2018201909.00. Under this policy consents are generally granted for the term sought by the applicant, other than when providing for a term set under (b) or for other identified reasons makes this inappropriate.

99. Consideration must be given to common catchment expiry dates. Consents should expire or have the ability to be reviewed on these dates and every 10 years thereafter. The common catchment expiry for this Water Management Zone is 1 July 2010.

100. Moving forward, if the applicant could confirm if the seven year term is also to apply to APP-2005011178.01.

101. I make further comment on possible permit duration at Section M of this report.

Rule Framework

102. The rule framework for the four consents being sought is detailed in the table below.

Relevant Rule One Plan Change 1 (2016)		
Activity	**Relevant Rule**	**Status**
ATH-2018202078.00 A land use consent to authorise bulk earthworks associated with the construction of a wetland on the lower terrace of the Eketāhuna Golf Club, in relation to the Eketāhuna Wastewater Treatment Plant	Rule 13-2 – Large scale land disturbance, including earthworks	Controlled
ATH-2018202081.00 A discharge to land permit to authorise the discharge of tertiary treated effluent to land via seepage from the unlined portion of the wetland	Rule 14-30 – Discharges of water or contaminants to land or water not covered by other rules in this Plan or chapter	Discretionary
ATH-2018202079.00 Water permit associated with the diversion of water and flood-flows around the bund and into the Makakahi River	Rule 16-13 – Diversions that do not comply with permitted activity and controlled activity rules	Discretionary
ATH-2018202080.00 A land use consent to authorise the construction of a bund within an area with a value of flood control and drainage associated with the construction of a wetland	Rule 17-15 – Activities affecting Schedule B Value of Flood Control and Drainage	Discretionary

103. As the bund is being constructed at the same time as the wetland, it is considered appropriate to bundle all the activities, with the discretionary activity status to apply to all the activities.

L. PART 2 ASSESSMENT

104. This report does not provide an analysis of the application against particular matters that appear in Part 2 RMA.

105. Part 2 of the Resource Management Act 1991 outlines the purpose and principles of the Act. Following the Davidson Decision (*RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316) the Court identified there is the ability to recourse to Part 2 when it is appropriate to do so. In this case, recourse to Part 2 is not required as it is not considered there is any illegality, uncertainty or incompleteness in the relevant part of the One Plan 2018. Recourse to Part 2 would not provide any further guidance to the decision maker for this consent. Further no such issues have been identified and as such no further assessment against Part 2 of the Resource Management Act, 1991 is considered necessary for this consent.

M. CONSENT DURATION

106. The One Plan (2018) identifies common catchment expiry dates and in this case, the Mangatainoka common catchment expiry is set at 2010.

107. Policy 12-5 of the One Plan (2018) to provide guidance on the duration of the consents. In this instance the applicant has sought a term of seven years for the suite of activities contained in APP-2018201909.00.

Chapter 12 – General objectives and policies	
Objective	**Policy**
Objective 12-2: Consent duration and review	Policy 12-4: Consent conditions Policy 12-5: Consent durations

108. Should the Panel be of a mind to grant this application based on the information included in the s42A reports, the applicant s41 B reports and submitter evidence (expert and layperson), I am of the view that the consents should have a duration of no more than **7 years** expiring on 1 July 2025. I have recommended that there is provision for a review to be undertaken in **July 2020** to align with the common catchment expiry for this water management zone.

N. CONCLUSION

109. It is my view that while there are some matters that require addressing, this outstanding information (mainly around the earthworks application) should be able to be addressed in the s41B report from the Applicant.

110. I have provided recommended conditions of consent in Appendix 1 relating to APP-2018201909.00 and APP-200501178.01 to assist the Commissioner's and other parties involved in the hearing.

Fiona Morton

5 November 2018