

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of an application by Winstone Pulp
International Limited (WPI) to the Manawatū-
Whanganui Regional Council (**APP-2006012018.03**)
for land disturbance associated with the construction
of a wetland and for the discharge of up to 750 m³/day
of condensate wastewater associated with proposed
wood processing operations.

RESPONSE TO PANEL MINUTE 4

COMMISSIONERS TREVOR ROBINSON (CHAIR), GREG RYDER, MIRIA POMARE

SECTION 42A REPORT OF FIONA MORTON – REPORTING PLANNER HORIZONS REGIONAL COUNCIL

21 October 2026

1. Following the hearing adjournment, the Panel issued Minute 4. Amongst other things it directed me to supply the following:
 - (a) A written copy of my commentary on consent duration, amended to pick up any further thoughts I may have had since the hearing;
 - (b) A table of consent expiry dates for third party resource consents in the Upper Whangaehu, Tokiahuru, Waitangi Water Management Sub-areas; and
 - (c) Any assessment or analysis I am able to provide in the time available of the extent and relevance of potential climate change effects of the end use of pellets produced from the torrefaction process, having regard to the decision of the Supreme Court in *Sustainable Otakiri Inc v Whakatāne District Council* [2025] NZSC 158.

Response to point 3(a)

2. Regarding (a), included in the document bundle is my supplementary evidence from the hearing. A brief paragraph has been added to the end of the document noting that upon questioning I modified by view on the lapse term but remained firm on the consent duration. A copy of the case referenced *New Zealand Transport Agency – Waka Kotahi* [2024] NZEnvC 133 (ENV-2023-WLG-000005) is also provided.

Response to point 3(b)

3. In response to the Panel's request at paragraph 3(b) of Minute 4, I have provided an Excel spreadsheet identifying resource consents within the Upper Whangaehu, Waitangi and Tokiahuru Water Management Sub-areas. Sheet 1 contains the summary data, while Sheet 2 contains the source data.
4. The spreadsheet identifies 70 distinct resource consents across the three Water Management Sub-areas represented by 72 sub-area entries. Two consents are recorded in more than one sub-area which account for the difference. The distribution is summarised in Table 1.

Table 1: Resource consents by Water Management Sub-area

Water Management Sub-area	Number of consents
Upper Whangaehu (Whau_1a)	27
Waitangi (Whau_1b)	23
Tokiahuru (Whau_1c)	22
Total sub-area	72

Total distinct resource consents	70
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5. I have reviewed the expiry dates to identify consents that align with the common catchment expiry dates of 1 July 2029, 1 July 2039, 1 July 2049 and 1 July 2059. The data identifies 34 consents expiring on one of these specific dates. The distribution is summarised in Table 2.

Table 2: Consents expiring on common catchment dates

Water Management Sub-area	Expiring on 1 July in 2029, 2039, 2049 or 2059
Upper Whangaehu (Whau_1a)	9
Waitangi (Whau_1b)	12
Tokiahuru (Whau_1c)	13
Total sub-area	34

6. This leaves 36 resource consents with expiry dates that do not align with the specified common catchment dates. These relate to a range of activities, including waste management, stormwater discharges, municipal water infrastructure, hydroelectricity generation, forestry-related infrastructure and works within riverbeds
7. The spreadsheet provides the individual authorisation and expiry details for reference.
8. Of the remaining 36 resource consents, six have had their expiry dates extended to 31 December 2027 under section 123C of the Resource Management Act 1991, as inserted by the Resource Management (Duration of Consents) Amendment Act 2025.
9. This leaves 30 consents with expiry dates that do not align with the common catchment framework and have not been subject to the statutory extensions.
10. Of those 30 consents, 23 (77%) have recorded commencement dates before the One Plan became operative in December 2014, comprising 22 commenced before 2014 and one during 2014. The remaining seven (23%) have recorded commencement dates after the One Plan became operative.
11. The seven more recent resource consents comprise a five-year gravel extraction consent, a 35-year culvert replacement consent, two consents associated with fish passage works, a municipal refuse disposal consent, a forestry ford consent and an industrial wood waste leachate discharge consent. I have considered these seven consents further below.

Water Management Sub-area	Consent Number	Activity	Commencement date	Expiry date
Upper Whangaeahu	ATH-2009012116.02 (Ernslaw One Ltd)	Forestry access track river gravel extraction	4 Aug 2023	4 Aug 2028
Upper Whangaeahu	ATH-2019203145.01 (Ernslaw One Ltd)	Karioi Forest ford utilisation renewal	30 Oct 2024	30 Oct 2029
Upper Whangaeahu	ATH-2023206068.00 (WPI)	Industrial untreated wood waste disposal site leachate discharge	10 Dec 2024	18 Nov 2059
Waitangi	ATH-1999007203.01 (NZDF)	Municipal refuse solid waste discharge	20 Jan 2022	24 Mar 2034
Tokiahuru	ATH-2017201559.00 (HRC)	Fish passage construction	31 Oct 2017	1 Jul 2042
Tokiahuru	ATH-2017201606.00 (HRC)	Fish pass site establishment and vegetation replanting	31 Oct 2017	1 Jul 2042
Tokiahuru	ATH-2022205351.00 (Ernslaw One Ltd)	Karioi Forest culvert replacement	10 May 2023	10 May 2058

12. I have reviewed ATH-2017201559.00 and ATH-2017201606.00. These two consents are held by the Regional Council and are region-wide consents authorising works at multiple locations. Consequently, there is no single Water Management Sub-area expiry date that could apply to the activities authorised by these consents.
13. ATH-1999007203.01 held by the New Zealand Defence Force, is a variation of an existing consent. As this was for a consent variation the term cannot be changed. The original consent (ATH-1999007203.00) was granted in 1999 and so preceded the common catchment framework.
14. ATH-2009012116.02 and ATH-2019203145.01 are both short-term, five-year consents associated with gravel extraction and ford works respectively. While the common catchment expiry provisions of IP-P5(2) are relevant to activities requiring consent under section 13 of the RMA, the policy provides for consent durations to generally align with the specified expiry dates rather than imposing an absolute requirement. The shorter consent durations are consistent with the nature of the activities authorised. ATH-2023206068.00 is a 35-year consent for the management of leachate from a capped landfill.
15. Overall, 34 of the 70 resource consents (49%) expire on a specified common catchment date, with a further six having been subject to statutory extensions. Of the remaining 30 consents, 23 have recorded commencement dates before the One Plan became operative in December

2014. The seven more recent consents relate to a range of activities, including region-wide authorisations, two short-term, five-year consents associated with gravel extraction and ford works, a 35-year consent associated with a capped landfill, and a variation of an existing consent. While not all consents expire on a common catchment date, I consider the nature and history of the remaining consents provide context for the differing expiry dates.

Response to point 3(c).

16. The Panel has requested that I consider the potential climate change effects associated with the end use of biocoal pellets, having regard to *Sustainable Ōtākiri Incorporated v Whakatāne District Council* [2025] NZSC 158.
17. I have briefly discussed the Panel's query with Council's legal counsel. Based on that discussion, my understanding of that decision is that downstream effects are not excluded from consideration under s 104(1)(a) as a matter of principle merely because they are indirect, or depend on the actions of third parties, or occur elsewhere (see [73]–[77]). Whether they are relevant in a particular case is described as a question of fact and degree, which generally requires expert evidence (see paras [76], [98], [118]), and the relevance of the effect may depend on the type of consent being sought ([59] and fn 73).
18. The consents before the Panel are for the discharge of condensate wastewater and associated land disturbance, not the manufacture or combustion of pellets. Their connection with end-use emissions therefore appears to be less direct than in *Sustainable Ōtākiri*, where the consent covered the whole activity (see para [66]). However, I am not aware of any other consenting process in which the greenhouse gas emissions from the end use of the pellets would be considered in a more direct way. While there will be a further process for discharges to air from the plant, any consent for discharges to air from the plant would relate to the plant's own emissions rather than to the combustion of the pellets by end users. The Supreme Court noted the long-standing approach of considering consequential effects "*particularly if they are environmental effects for which there is no other forum*" (see para [60]). In the time available I have not reached a firm view, but I consider these effects could in principle be relevant to this application.
19. I note that the Applicant relies on Mr Duder's evidence (see his s 41B report, para 3.4) that replacing coal with biocoal pellets could result in approximately 400,000 tonnes per annum of CO₂ abatement. If end-use effects are considered relevant, my understanding is that the Panel

would need to consider both the adverse effect, being the contribution of the pellets to greenhouse gas emissions, and any positive effect, such as the effects of displacing the use of coal (see paragraph [73]). In my view, that suggests the emissions from the pellets would remain an adverse effect even if the pellets do replace coal. However, as I am not an expert on these issues, I am not qualified to verify either the positive or negative effects here.

20. The Supreme Court's decision indicates that it is for the Consent Authority to decide whether the Applicant should provide evidence on these matters (see para [121]). The Panel has already asked the Applicant to address this issue in its reply. I consider that the Applicant is better placed to provide the technical information necessary to establish the potential net climate change effects associated with the end use of the pellets. That information may assist the Panel in determining the extent and relevance of these effects.



Fiona Morton

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