

NORTHLAND REGIONAL COUNCIL

**Report and Decision of the Council, through its Hearings Committee meeting
held in the Conference Room, Copthorne Hotel & Resort Hokianga
on Tuesday 25 November 2008,
commencing at 10.00am**

The Hearings Committee ("the Committee") of the Northland Regional Council was convened to hear resource consent application(s) lodged by Far North District Council relating to the operations of the Opononi/Omapere wastewater treatment system, adjacent to the Hokianga Harbour. The application(s), made in accordance with the Resource Management Act 1991 ("the Act"), were lodged with the Northland Regional Council and referenced as (NRC Application No. CON20070266701).

PRESENT: **Hearings Committee**
Cr L Hill
Mr JL Peters

APPLICANT: **Far North District Council**
Ms T Fordyce
Mr S Kreegher- Environmental Engineer
Mr L Fog- Civil Engineer
Mr B Manson-Consultant Management & Resource Management

CONSENT AUTHORITY: **Northland Regional Council**
Mr S Savill

SUBMITTERS: **Director General of Conservation**
Mr A Riddell- Resource Management Planner

Nga Ngaru o Hokianga Takiwa
Mr S Naera

Pakanae, Kokohuia & Waiwhatawhata Marae
Ms K Taurau
Mr A Hessel
Mrs P Naera
Mr J Klaricich

Te Runanga O Te Rarawa
Mr A Witana

IN ATTENDANCE: Mr D H Alderton, Committee Secretary
Ms K Nahi Taiha

1. DESCRIPTION OF THE PROPOSED ACTIVITY

The consent applications are related to the wastewater treatment and disposal system that currently services the settlements of Opononi and Omapere. The discharge permit applications are all for replacement consents. The discharge from the wastewater treatment system is via an ocean outfall directly to the Hokianga Harbour. The discharge pipeline has never been consented under the Resource Management Act 1991, and the structure is not been scheduled in the Coastal Plan for Northland as a permitted existing coastal structure. Therefore, although the structure has been in place since the early 1980's, the coastal permit application for the occupation and use of the seabed of the Hokianga Harbour for the pipeline is a new application.

2. REGIONAL PLAN RULES AFFECTED

The Hokianga Harbour is classified in the Regional Coastal Plan for Northland as Marine 2 (Conservation) Management Area. The discharge of treated sewage into Marine 2 areas is a discretionary activity under Rule 31.4.f of the Regional Coastal Plan for Northland.

The discharge to land of contaminants from the base of the sewage treatment system does not meet the criteria of the permitted activity rules in Section 15 – Rules for Sewage Discharges in the Regional Water and Soil Plan for Northland. Therefore the discharge is deemed to be a discretionary activity under Rule 15.3.1 of the Regional Water and Soil Plan for Northland.

The discharge of contaminants to air (primarily odour) from the sewage treatment system does not meet the requirements of permitted activity rule 9.1.6 of the Regional Air Quality Plan for Northland. Therefore the discharge is deemed to be a discretionary activity under Rule 9.3.2 of the Regional Air Quality Plan for Northland.

The placement of any new structure in Marine 2 areas, and the occupation of space for, and use, of that new structure is a discretionary activity under Rule 31.4.w of the Regional Coastal Plan for Northland.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

These applications were publicly notified on 12 April 2007, with the submission period closing on 10 May 2007. Six submissions were received, with one by Te Runanga o Te Rarawa being one day late. A summary of the submissions is provided in Table 1 below.

TABLE 1: SUMMARY TABLE OF SUBMISSIONS

Date Received	Name of Submitter	Oppose/Support	Wish to be Heard	Issues of Concern	Relief Sought
23/4/07	Gordon Banfield	Support	Yes	<ul style="list-style-type: none"> ▪ Without viral treatment the system is not "best practice". ▪ Development and management of wetland plantings so as to build healthy planted wetlands. 	Grant Consent, but: <ul style="list-style-type: none"> ▪ Add viral requirements. ▪ Improve wetland plantings.
10/5/07	Pakanae, Kokohuia and Waiwhatawhata Marae	Oppose	Yes	<ul style="list-style-type: none"> ▪ Increase in volumes, duration of consent and area of benefit. ▪ Effects of activity and retention of waste prior to discharge. ▪ Discharge to water culturally offensive. ▪ Proper and due consideration to all alternatives/options should be given requested 24 year term of consent. ▪ No known restrictions for disposal to land within coastal planning zones and conservation land. ▪ Use of cultural land may be appropriate, but they have not been consulted on this option. ▪ Use of production land not considered ie. Mangawhai Eco-Care solution. ▪ Have not had the opportunity to discuss in detail application with the applicant. ▪ Given increased volume and duration of consent, applicant needs to improve final discharge quality and continually look at upgrading plant. 	Refuse consent. If granted require: <ul style="list-style-type: none"> ▪ 10 year term of consent. ▪ Extent of outfall to remain same. ▪ Area of development shall be as per applicant's Development Plan. ▪ Sequence/timing of discharge should remain same. ▪ Applicant to research land disposal option, including discussions with submitter, and develop a strategic upgrade for the WWTP.
10/5/07	Northland Health	Support	Yes	Public Health impacts of application: <ul style="list-style-type: none"> ▪ Health of people using the waters of the Hokianga for recreational purposes. ▪ Health of consumers of recreational shellfish/kai moana in the general area. 	Grant consent with sampling regime as proposed in application and the requirement to notify Medical Officer of Health and/or On-call Health Protection Officer if any unauthorised discharges occur.
10/5/07	Department of Conservation	Oppose	Yes	<ul style="list-style-type: none"> ▪ Discharge to coastal water can have adverse effects. ▪ Inadequate BPO. ▪ Inadequate assessment of effects during wet weather flows. ▪ Sampling regime is inadequate. ▪ Proposal inconsistent with some policies and objectives of NZ Coastal Policy Statement. ▪ Proposal is inconsistent with Regional Policy Statement, Regional Coastal Plan and Regional Water and Soil Plan. ▪ Discharge does not achieve purpose of the RMA. 	Grant consent, but: <ul style="list-style-type: none"> ▪ Three year term. ▪ Require full land disposal and assessment report within two years. ▪ Sampling regime that is enforceable and statistically representative. ▪ Include standard discussed in Section 4.3 of applicant's report as consent condition.

Date Received	Name of Submitter	Oppose/Support	Wish to be Heard	Issues of Concern	Relief Sought
10/5/07	Nga Ngaru o Hokianga Takiwa	Oppose	Yes	<ul style="list-style-type: none"> ▪ Insufficient effort to consult with Nga Ngaru o Hokianga Takiwa. ▪ No effort made to consult with Te Iwi o Te Rarawa. ▪ Disagree that discharge to the Hokianga is only viable option and recommend applicant provide further research. ▪ Fail to see discharge to recreational area and Kai Moana area can be considered to meet reasonable foreseeable needs of future generations. 	Refuse consents. Applicant needs to undertake a Cultural Impact assessment process with Tangata Whenua.
11/5/07	Te Runanga o Te Rarawa	Oppose	Yes	Same issues raised as Pakanae, Kokohuia and Waiwhatawhata Marae.	Same relief sought as Pakanae, Kokohuia and Waiwhatawhata Marae.

4. PROCEDURAL MATTERS

A late submission from Te Runanga O Te Rarawa was received one day after submissions closed.

The Hearings Committee made the decision during the hearing that the Regional Council, under Section 37 of the Resource Management Act, accepts the late submission of Te Runanga O Te Rarawa as no new issues were raised by their submission and therefore it does not prejudice the Applicant.

5. EVIDENCE HEARD

The Committee heard evidence from the applicant, expert witnesses, submitters, and the Council's reporting officer. The following is a summary of the evidence heard at the hearing.

Applicant's Evidence

Ms T Fordyce – Legal Counsel

On behalf of the Applicant, Ms Fordyce outlined the matters relating to the consent, specifically, the treatment system, land disposal and assessment of best practical option, conditions and witnesses to present evidence.

Treatment System:

The treatment system includes screening, a mechanically aerated oxidation pond, a maturation pond and constructed wetlands. The treated effluent is then held in a storage pond to await discharge to the harbour by being pumped via a 740m outfall during a three hour discharge window between 1 hour after high tide to 4 hours after high tide. This system is different to other wastewater treatment systems in the north as the pumping allows for some level of control of the volume being discharged.

To date the system has worked well and continues to meet the imposed conditions, ensuring that there is minimal effect on the receiving environment.

Ms Fordyce also stated that in times of extreme weather events there has been a problem with stormwater entering the system which resulted in the applicant having to apply to the Northland Regional Council to increase pumping times from the storage ponds to the harbour.

Alternatives and Assessment of Best Practical Option:

Ms Fordyce explained that as part of the application, an assessment of alternative disposal options was discussed, specifically disposal to land. Policy 17.4(b) of the Regional Policy Statement for Northland provides that discharges shall "*either be onto land, or be the best practicable option when compared to land disposal*". In her opinion the policy does not express a preference for land disposal and that the treatment system proposed, in this case, is the best

practicable option. The Applicant considers there is no suitable flat land available for land disposal, but accepts the proposal to work with the community to evaluate any specific land identified by local Marae as being suitable for land disposal, but did not see this as a reason to limit the time period of any consents.

The Applicant also indicated acceptance of a further limitation on any consents that the area of benefit for the treatment system be limited to the areas zoned for Opononi and Omapere.

Reference was made to the prehearing meeting and the general level of agreement between the Applicant and a number of submitters. The Applicant accepts the provision of a liaison group as a method of maintaining community consultation and suggested an amendment to proposed conditions to set a structure for the timing of any meeting of the liaison group.

Ms Fordyce submitted that expert evidence to be submitted on behalf of the Applicant would show that the application could be approved with appropriate conditions.

Stefan Kreegher- Environmental Engineer

Mr Kreegher outlined the existing Opononi/Omapere Wastewater Treatment System stating that it is proposed to continue to discharge to the Hokianga Harbour in this manner and no changes are proposed to the outfall pipe (including its location) or the timing of the discharge.

Mr Kreegher presented evidence of monitoring undertaken by the Northland Regional Council from February 1997 to April 2005 that indicated that the median faecal coliform count was 4 cfu/100ml, with a maximum recorded in March 2001 of 32cfu/100ml, results which are well below the median required (150/100ml) for all samples taken.

Mr Kreegher stated that the Northland Regional Council compliance monitoring for ammonia-nitrogen in the receiving environment indicates that the level of ammonia has been consistently well below that required, and concluded that the analysis of the monitoring indicates that the Opononi /Omapere WWTP is not having any detrimental effects on the Hokianga Harbour in regard to faecal coliforms and ammonia-nitrogen levels.

Mr Kreegher presented his findings with regard to a land disposal option and in his opinion land disposal within the area of interest is not feasible and therefore considered that the best practicable option is to discharge treated wastewater to the Hokianga harbour.

He further stated that the applicant acknowledges that the local community (especially local iwi) wish to investigate the feasibility of land disposal further, so has agreed (in general terms) to a consent condition requiring the Applicant to undertake an investigation into alternative land areas that are considered by local Iwi to be suitable for the discharge of treated wastewater to land from Opononi and Omapere townships.

Mr Kreegher requested that the previously discussed time frame be amended to *“This investigation shall then be completed within 18 months of the date of receipt of the land areas identified for investigation.”*

Mr.Kreegher outlined the consultation process undertaken to date.

Lars Fog – Civil Engineer

Mr Fog stated that the current WWTP operates well based on a simple plant design. He questioned the statement from the Northland Regional Council reporting officer that there had been two recorded overflows from the wetland system to the Waiarohia Stream. After checking with the Operations and Maintenance Contractors for the scheme, Mr Fog advised the committee that there had been no overflow events as described, and that these events related to increased pumping duration to the Hokianga Harbour, for which the Northland Regional Council was contacted and approval given. These events occurred during extreme wet weather within the area e.g. 2008 event where rainfall at times reached up to 28mm in 20 minutes. He advised that this event was caused primarily by stormwater runoff from the surrounding catchment entering the treatment system.

Mr Fog stated he supported the mitigation condition, Condition 2, proposed in the staff report requiring that the Consent Holder shall minimise, as far as practicable, any increase in the quantity of wastewater discharged into the Hokianga Harbour as a result of stormwater inflow and infiltration into the sewage reticulation network and treatment system.

Mr Fog addressed concerns raised by Nga Marae o Te Wahapu submitters regarding cattle grazing of the marsh treatment cells. Operations staff advised that there had been some instances when the gate had been left open by mistake and cattle got in and grazed the margins of the cells. The gate is now chained and padlocked and there have been no further incidents.

Mr Fog referred to the submission by Pakanae, Kokohuia and Waiwhatawhata Marae representing Ngatikorokoro, Ngatiwharara and Te Pouka hapu of Ngapuhi.

This submission raised concerns regarding the discharge of wastewater to the Hokianga Harbour, and sought that alternatives to the current practice of treatment and discharging wastewater into the ancestral harbour waters be researched and implemented as they consider it is culturally unacceptable to continue, or increase the quantity of the discharge.

They accept the treatment plant and its sea outfall exists, that it was designed to serve the needs of the township of Omapere/Opononi, as set out in maps 104 and 105 of the proposed District Plan, and are opposed to any other areas being serviced by the scheme.

Mr Fog stated there was no intention by the Far North District Council to allow communities outside of the Omapere/Opononi boundaries as shown in the proposed district to connect to the wastewater scheme.

Bruce Manson- Consultant Planner

Mr Manson's evidence assessed the application against the NZ Coastal Policy Statement; the Regional Policy Statement; the Regional Coastal Plan for Northland; the Regional Air Quality Plan; and the Regional Water and Soil Plan and commented on relevant submissions.

Mr Manson concluded that in his opinion the proposal is not inconsistent with the policies of the NZ Coastal Policy Statement, nor the Regional Policy Statement for Northland. The Regional Policy Statement recognises and requires that rules be developed to allow discharges to land and to water. The proposal and methods to be employed are allowed as discretionary activities under the Regional Coastal Plan, the Water and Soil Plan and the Air Quality Plan for Northland.

Mr Manson stated any minor adverse effects can be mitigated through reasonable conditions of consent and that the proposed discharge method better meets the purpose of the Act in that it represents the sustainable management of natural and physical resources.

Submitters' Evidence

K Naera

K Naera expressed concern re lack of contact or consultation.

Director General of Conservation Represented by A Riddell – Resource Management Planner

Mr Riddell in his evidence questioned the performance of the existing treatment system due to the limited monitoring that has been undertaken e.g. 10 occasions (24 samples) from 1997 to 2005. This monitoring has been undertaken in the plume of the discharge and the staff report does not include sampling results upstream to check for any changes, if any, the discharge is making to the harbour.

Mr Riddell referred to the Regional Policy Statement, Policy 17.4(b)1 which states:

“To require that all existing discharges with high organic content, particularly sewage and animal wastes, be upgraded to meet the requirements in Policy 17.4(b)1, based on the actual and potential effects of the discharge by the year 2004, or according to an upgrading programme established as part of the conditions of a discharge permit.”

Policy 17.4(b)1 requires that discharges of organic contaminants, particularly sewage and animal wastes be either onto or into land, or be the best practicable option when compared with land disposal.

Mr Riddell then referred to the Regional Coastal Plan, which also seeks the progressive elimination of discharges from wastewater treatment facilities to the coastal marine area and requires that this type of discharge has to be the best practicable option.

In his opinion, further investigation needs to be undertaken for land disposal options or a mix of options as recommended in the staff report, there is a more than minor adverse effect on cultural water quality, and he questions the reliability of the scheme with the discharge pipe being reduced in length.

Mr Riddell considers:

1. that the current discharge is contrary to policy, and has more than minor adverse effects,
2. It would not be sustainable management just to refuse consent for the continued discharge because Omapere and Opononi are dependant on this wastewater scheme.
3. It would be consistent with sustainable management for the discharge permit to be renewed only for a short time while the applicant investigates other options, including land disposal.
4. That a term of consent for three years would be reasonable.
5. That consent conditions should include:
 - Disinfection of the wastewater prior to discharge into the harbour;
 - A fixed daily maximum discharge volume set to reflect current population and tourist demand; and
 - A statistically robust monitoring programme.

Marae O Te Wahapu O Hokianga K Taurau – Counsel

Ms Taurau stated that Tangata Whenua have opposed previous applications for consent to dispose of wastewater into the Hokianga harbour as the discharge of human waste and sewerage into coastal water is an abhorrent and culturally insensitive practice to Maori and these applications may be seen as a continuation of the status quo.

Other concerns expressed by the Marae O Te Wahapu O Hokianga included:

- That the application fails to properly assess the effects of the proposal on tangata whenua;
- The application fails to properly consider alternative disposal methods;
- There has been no consultation with tangata whenua;
- Significantly increasing the volume of the discharge without any proposal to upgrade the treatment plant;

- That the application should be declined, but if granted, then a term of ten years should be granted with the area of benefit identified, further research into alternatives undertaken, the outfall pipe to remain as situated and a plan to upgrade the treatment plant be developed.

Counsel further submitted that the draft conditions of consent that were circulated as a result of the pre-hearing meeting failed to take adequate account of the issues raised by the Marae.

Ms Taurau referred to the Resource Management Act 1991 specifically:

- Section 6(e), stating that no assessments of the effects of these applications on Maori has been undertaken by the applicant as required.
- Section 7(a), requiring that particular regard must be given to kaitiakitanga outlining the effects the applications may have on Maori in regard to their functions of kaitiakitanga, which is the basic tenet of Maori society and underpins the mana of hapu and iwi.
- Section 8, requiring that the Treaty principles must be taken into account restating that there has been no consultation between the Applicant and the Marae.

Reference was also made to the NZ Coastal Policy Statement and the Regional Policy Statement for Northland and that both documents have policies requiring the avoidance and mitigation of adverse effects of discharges and contaminants to water on traditional and spiritual values of water held by tangata whenua.

Concern was expressed with regard to the past monitoring of the consent and also the report recommending less monitoring of the harbour water quality. The Marae supports recommendations for increased monitoring and reporting of the quality of the discharge from the wetland.

Ms Taurau concluded that the applicant has not provided a proper assessment of effects on tangata whenua as required by the Act and that the applications should be declined. If however the Hearing Committee is satisfied with the evidence presented and decides to approve the consent, then conditions proposed by the Marae should be included to enable its concerns to be taken into account.

Alan Hessel – Committee Member

Mr Hessel's submission addressed the concerns relating to the proposal to increase the volume of discharge to the harbour, the lack of monitoring of effects that has previously occurred, the lack of information to support the applications, and the lack of consideration of alternative disposal methods.

Mr Hessel referred to the Reporting Officer's comments regarding the difficulty in locating the dye plume for monitoring.

Mr Hessel also referred to the effects of the discharges on kaimoana and that kina had previously been gathered from the area around the discharge pipe but is no longer gathered from that area.

Mr Hessel claimed that there have been more overflow events into the Waiarohia Stream than stated in the Regional Council Staff report, and that the local people acknowledge that the stream is contaminated and do not gather traditional kai from the mouth of the stream, nor are children allowed to bathe there. He sought seepage and overflow into the Waiarohia to be prevented and regular monitoring of the stream, a reduced term of consent and investigations into land disposal, and supported the requirement in the consent conditions for a viral treatment system to be included.

Mrs Ellen Naera

Mrs Naera submitted that they have family land along the Waiarohia Stream and reported on an incident regarding the discharge into the stream and claimed there is no longer fish in the stream and they do not swim in the stream any more.

Mr John Klaricich

Mr Klaricich reported that Nga Marae O Te Wahapu O Hokianga was pleased to be involved in the pre-hearing discussions and was able to reach agreement on certain points and in particular the definition of the area of benefit and the setting up of a special liaison group.

He referred to the agreed area of benefit as being that of *the township of Omapere and Opononi as defined by the operative Far North District Plan*. Mr Klaricich added that existing connections outside the townships should be identified now to avoid confusion in the future. Any changes to the boundaries of this area would go through a public process in which they and the community could participate in.

Mr Klaricich spoke of the Applicant's lack of consultation prior to lodging the application, and that its environmental and cultural bottom lines are set out in its draft Hapu Development Plan, which had been provided to the Applicant, and states its relationship with the Hokianga and the cultural affront that the discharge of sewage brings about.

Mr Klaricich referred to the strong Maori interest in the application emphasising the high cultural and historic significance of the area that holds oral traditions, history and sites which record Ngapuhi beginnings, and that Maori have always been opposed to the discharge of sewage and wastewater into its taonga.

He stated that of importance to them was for the discharge pipe of the wastewater treatment plant to remain where it is, not to be extended as proposed or relocated elsewhere, despite their cultural conscience crying out for it to be removed. To extend or relocate the outfall anywhere else would offend the same cultural values. Only relocating to a land based disposal would satisfy the cultural dilemma.

Mr Klaricich explained the reason why his elders at the time of the original application remained silent to the outfall being placed where it is and the

wastewater to be discharged into the harbour. The reason being that they were told by the Council of that time, that due to health problems experienced at the Opononi sub-division they would not be able to build on their land and that Council would not be issuing building permits.

Mr Klaricich in his submission requested:

- Proposed Condition 22 of the Staff recommendation be expanded to include (h): to consult with the Kaitiaki Committee on any issues affecting the outfall;
- Support be given to the submitter's request for a ten year consent term, as the 24 year term requested is too long;
- The Applicant provide a development plan for additional storage capacity;
- Assurance be given that the floors of the pond are secure and properly sealed, and the constructed wetland system is isolated from hillside runoffs and stream flooding;
- The Applicant construct protective bunding to protect the wetland treatment system and ponds, and that the Waiarohia Stream be cleared to reduce overflow risks;
- A condition requiring a dedicated treatment device for viral removal be installed;
- The proposed liaison committee is to include Pakanae, Kokohuia and Waiwhatawhata Marae who were submitters as Nga Marae O Te Wahapu O Hokianga. However, Nga Marae O Te Wahapu also includes the Waimamaku Marae. This Marae should be included in the Kaitiaki group along with a member from the Opononi/Omapere Ratepayers.

Te Runanga O Te Rarawa – A Witana

Mr Witana told the committee that Te Runanga O Te Rarawa is the iwi authority representing 23 affiliated Marae and outlined their operations and their area of Mana Whenua rights, which includes Hokianga.

Mr Witana requested that the application for the existing wastewater discharge pipeline be declined, and that the volume of treated wastewater is restricted to current levels, or to a level required to cover the current area of benefit identified in the District Plan.

Te Runanga O Te Rarawa supports the undertaking of an investigation for land based disposal, which should be completed in a two year timeframe. Te Runanga O Te Rarawa also supports the Community Liaison Group and requested that a representative of Te Runanga O Te Rarawa should be on the Community Liaison Group.

Council's Reporting Officer's Report and Evidence

Effects Assessment

The current consent allows a daily dry weather discharge volume of 434 cubic metres per day and, as part of this application, the applicant is requesting an approximate 50% increase in the dry weather discharge volume to 685 cubic metres per day. This amount has been based on maximum discharge volumes in 2031 from the Applicant's growth strategy for the area and estimated increase in tourist numbers during the summer months. For 2031, the resident population using current census data has been estimated at 1141 with an expected average dry weather flow of 228 cubic metres per day. The proposed maximum daily discharge volume of 685 cubic metres per day is three times this volume. The Officer recommended that, if the consent is granted, the daily discharge volume should be set at a maximum of 685 cubic metres per day, rather than a daily dry weather average and gave reasons for this recommendation.

The main issue of this discharge is the potential effect on kaimoana due to viruses within the discharge. Mr Savill concluded that in his opinion after having assessed the information available and the actual adverse environmental effects on water quality as indicated by the monitoring results for the current discharge, that overall they will be no more than minor. Mr Savill further highlighted other problems that had been identified, but considered that his recommendations to consent conditions should ensure that the discharge would have no more than minor adverse effects on the receiving waters of the Hokianga harbour.

Mr Savill's assessment of the relevant objectives and policies is that this proposal can meet, or is consistent with, all of them, except those relating to the reduction, or minimisation, of contaminants to water and Maori cultural matters. If consent is granted, he submitted that his recommendation for an investigation into alternative land areas that are considered by local Marae to be viable for land disposal system may mitigate Maori cultural concerns.

Mr Savill also advised that in making its decision on this application, the Hearings Committee must under Section 104(1) of the Act, have regard to national and regional policy statements and plans, but this is subject to Part 2 of the Act. Mr Savill's opinion was that the proposal does meet the purpose of the Act. Declining the application for a coastal permit for a discharge to coastal water would negate the benefits to the health of the environment and the local community of having their community sewage scheme continue. His recommendation was to grant the consent with the recommended conditions.

6. SITE VISIT

The Committee inspected the wastewater treatment system on at 5.00pm on 25 November 2008. The aerated lagoon and oxidation pond were operating and were odour free. The wetland marshes appeared to be in a healthy condition and there was no evidence of cattle grazing in the area. All of the surrounding fences and gates were well secured.

7. PRINCIPAL ISSUES

The principal issues that were in contention were:

- (a) The discharge of the treated wastewater to the Hokianga Harbour is culturally unacceptable to Maori.
- (b) The maintenance and capacity of the treatment system for the proposed increase of the discharge.
- (c) The quality of the wastewater to be discharged to the Harbour;
- (d) The adverse effects on the water quality of the Hokianga Harbour;
- (e) The term of the consent.

8. MAIN FINDINGS OF FACT

The Committee considers that the following are the main facts relating to this application:

- 1 These applications relate to an existing wastewater treatment and disposal system that currently services the townships of Omapere and Opononi. The discharge permits are all for replacement consents, and the coastal permit application for the occupation and use of the seabed of the Hokianga harbour for the discharge pipeline is a new application. The pipeline has been in place since the early 1980's but has never been consented. The continuing provision of this infrastructure is vital for the health and wellbeing of the community.
- 2 There have been two recorded instances by the Northland Regional Council of problems with potential overflows from the wetland treatment system since 1997, including one being the result of an extreme localised rain event in the Hokianga harbour area. There has also been one incident of cattle getting into the wetland treatment area when someone did not close the gate.
- 3 Monitoring results of the discharge quality show that generally the system has performed well.

- 4 Monitoring results of the Hokianga harbour water quality since 1997 indicates that the current discharge has had no more than minor adverse effects after reasonable mixing.
- 5 The Maori community abhors having the discharge of wastewater into the harbour and acknowledge the Applicant's willingness to investigate possible land disposal options. They have supported the concept of a Community Liaison Group in which they will participate and by limiting the area of benefit to the current township areas, as defined in the Far North District Plan, any subsequent changes to these areas allows for public participation. It has also been submitted by them the reasons for remaining silent in regard to the discharge to the harbour previously was the recognition by their elders of the need for such treatment of sewage to allow them to develop housing on their family land.
- 6 The coastal permit application for the pipeline is for a new consent for the existing pipeline where it currently occupies the seabed. Submissions from Nga Marae O Te Wahapu O Hokianga have requested that the pipeline not be altered or moved as such action would be culturally unacceptable.
- 7 The assessment of the relevant objectives and policies as required under Section 104(1) of Resource Management Act 1991 shows that this proposal is consistent with all of them, except those relating to reduction, or minimisation, of contaminants and Maori cultural values.
- 8 The Reporting Officer has submitted that in his assessment, with the recommended conditions of consent, the adverse environmental effects from these applications will be no more than minor.
- 9 The Applicant has agreed to further investigate the option of land disposal.
- 10 There have been differing opinions in regard to the term of the consent:
 - The Reporting Officer recommended that the term be for a period of approximately 23 years (expiring on 31 August 2031) as coastal water quality monitoring indicates the current discharge is having no more than minor adverse effects and the increased discharge rate at the requested expiry date should also have no more than minor adverse effects on coastal water quality after a small reasonable mixing zone. The recommendations of the Reporting Officer also includes review clauses that allow the Northland Regional Council to review the conditions of consent annually to deal with, among other matters, any adverse effect on the environment which may arise from the exercise of the consent;

- Mr Klaricich in his submission for Nga Marae O Te Wahapu O Hokianga supported a ten year term which they considered would give a realistic time frame for the land based research to be done, with a review at five years to engage with the wider community on research results and the next stage if needed; and
- Mr Riddell for the Director General of Conservation requested a three year term of consent as in his opinion it was consistent with sustainable management for the discharge permit while the applicant undertakes a comprehensive study of land disposal and treatment improvement options.

The Hearings Committee considered the evidence and agrees with the ten year term of consent, as this would allow time for investigations into alternative land disposal options to be undertaken and, if successful, for the processing of any new consent applications for the land disposal option to be completed.

9. RELEVANT STATUTORY PROVISIONS

9.1 Policy Statements and Plan Provisions

In considering this application, the Hearings Committee has had regard to the matters outlined in Section 104 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- (a) Regional Policy Statement for Northland (RPS);
- (b) Regional Water and Soil Plan for Northland (RWSP);
- (c) Regional Air Quality Plan for Northland (RAQP);
- (d) Regional Coastal Plan for Northland (RCP);
- (e) Resource Management Act 1991 (RMA)
- (f) New Zealand Coastal Policy Statement (CPS)

The proposed activity contravenes Section 15 of the Act, and therefore the Council has also had regard to the matters outlined in Sections 105 and 107 of the Act.

9.2 Part II Matters

In considering this application, the Hearings Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act as well as the overall the purpose of the Act as presented in Section 5.

10. DECISION

Pursuant to Section 104B of the Act, the Committee **GRANTS** consent subject to conditions imposed pursuant to Section 108.

CON20070266701 **Notified New and Replacement**

FAR NORTH DISTRICT COUNCIL, PRIVATE BAG 752, KAIKOHE 0440

To undertake the following activities associated with the operation of a wastewater treatment system on Lot 1 DP 110735 and Lot 1 DP 167208 Blk VII Hokianga servicing the townships of Omapere and Opononi, as defined by the operative Far North District Council Plan, and all existing connections to this system that are outside these townships, as at the date of commencement of these consents:

- (01) To discharge treated wastewater into the Hokianga Harbour at or about location co-ordinates 1634768E 6069462N.
- (02) To discharge treated wastewater to land from the base of a wastewater treatment system at or about location co-ordinates 1635620E 6069420N and 1635800E 6069350N.
- (03) To discharge contaminants, primarily odour, to air from a wastewater treatment system at or about location co-ordinates 1635620E 6069420N and 1635800E 6069350N.
- (04) To occupy and use the bed of the Hokianga Harbour for an existing wastewater discharge pipeline structure.

Note: All location co-ordinates in this document refer to Geodetic Datum 2000, New Zealand Transverse Mercator Projection.

Subject to the following conditions:

(01) & (02) Coastal and Land Discharge

- 1 The quantity of treated wastewater discharged to the Hokianga Harbour shall not exceed 685 cubic metres per day.
- 2 Notwithstanding Condition 1, the Consent Holder shall minimise, as far as practicable, any increase in the quantity of wastewater discharged to the Hokianga Harbour as a result of stormwater inflow and infiltration into the sewage reticulation network and treatment system. This shall include the prevention, as far as is practicable, of stormwater run-off from the surrounding land entering the treatment system. For compliance purposes, the Consent Holder shall record the daily wastewater inflow volume to the treatment system.

- 3 The Consent Holder shall notify the Northland Regional Council's Monitoring Senior Programme Manager in writing of any proposed changes to the wastewater treatment and coastal discharge system, as installed at the date of commencement of these consents, at least one month prior to the proposed change(s) being undertaken.
- 4 The Consent Holder shall maintain a meter on both the inlet to, and the outlet from, the treatment system that has a measurement error of $\pm 5\%$ or less. These meters shall then be used to determine compliance with Conditions 1 and 2.
- 5 The Consent Holder shall re-calibrate the meters required by Condition 4 at least annually to ensure that the specified accuracy is maintained. Written verification from a suitably qualified person that the meter has been calibrated during the previous 12 month period shall be forwarded to the Northland Regional Council's Monitoring Senior Programme Manager by 1 May each year.
- 6 Treated wastewater shall only be discharged to the Hokianga Harbour for a maximum of three hours each tidal cycle between one hour and four hours after high tide via the discharge pipeline from the treatment system, as installed at the date of commencement of these consents.
- 7 The Consent Holder shall calibrate the tidal clock used to control the time of discharge to the Hokianga Harbour at least annually to ensure that the programmed high tide discharge time is, as far as is practicable, the same as when high tide actually occurs at the site. Written verification from a suitably qualified person that this calibration has been undertaken during the previous 12 month period shall be forwarded to the Northland Regional Council's Monitoring Senior Programme Manager by 1 May each year.
- 8 The Consent Holder shall ensure safe and easy access to Northland Regional Council sampling site 101580, Marsh Discharge, so that treated wastewater samples can be safely collected.
- 9 There shall be no discharge of contaminants onto or into land, or into water, from any part of the treatment system except via seepage from the base of the treatment system and the designated outlet pipe from the treatment system into the Hokianga Harbour.
- 10 The discharge of contaminants to land via seepage from the base of the treatment system shall not result in any adverse effects on the water quality of the Waiarohia Stream, as measured immediately downstream of either the treatment ponds or the constructed wetland system. For compliance purposes the downstream water quality shall be compared with the water quality immediately upstream of the constructed wetland system. The error of the analytical method and measuring instrument at the 95%ile confidence level shall be included in determining all parameters.

- 11 Notwithstanding any other conditions, the discharge of any contaminant (either by itself or in combination with the same, similar or other contaminants or water) shall not result in any of the following effects in the water quality of the Hokianga Harbour, as measured at any point at, or down-current of, where the treated wastewater first contacts the surface of the Hokianga Harbour:
- (a) The production of conspicuous oil or grease films, scums or foams, floatable or suspended materials;
 - (b) Any conspicuous change in the colour or visual clarity;
 - (c) Any emissions of objectionable odour;
 - (d) Any significant adverse effects on aquatic life; and
 - (e) No more than minor adverse change in either the Escherichia coliform or Enterococci concentration.

For compliance purposes, the down-current water quality shall be compared to the background water quality of the Hokianga Harbour at an up-current site that is not affected by this discharge for each of the above parameters. The error of the analytical method and measuring instrument at the 95%ile confidence level shall be included in determining all parameters.

(03) Discharge to Air

- 12 The Consent Holder's operations shall not give rise to any discharge of contaminants at or beyond the legal boundary of Lot 1 DP 110735 and Lot 1 DP 167208 Blk VII Hokianga which is deemed by a suitably trained and experienced Enforcement Officer of the Regional Council to be noxious, dangerous, offensive or objectionable.

(04) Discharge Pipeline Structure

- 13 This consent only authorises the existing structure as installed at the date of commencement of this consent.
- 14 The Consent Holder shall, within three months of the date of commencement of this consent, forward to the Regional Council's Monitoring Senior Programme Manager a plan drawn by a registered surveyor that shows the location of the existing pipeline structure from State Highway 12 to the outlet of the pipeline.
- 15 The pipeline shall be buried at all times and the structural integrity of the pipeline shall be maintained at all times. The Consent Holder shall undertake inspections of the bed of the Hokianga Harbour where the pipeline is installed and also the outlet of the pipeline at least once every two years. A written report on the results of this inspection shall be forwarded to the Northland Regional Council's Monitoring Senior Programme Manager by 1 May every two years from the date of commencement of this consent.

Advice Note: Any maintenance or repair work on the discharge pipeline will need to meet the permitted activity criteria of Rule 31.4.4(f) of the Regional Coastal Plan for Northland or otherwise be the subject of an application for resource consent.

General Conditions (01) – (04)

- 16 The Consent Holder shall maintain the treatment system so that it operates effectively at all times, and a written record of all maintenance undertaken shall be kept. In addition, the Consent Holder shall forward to the Northland Regional Council’s Monitoring Senior Programme Manager within six months of the date of commencement of these consents, a maintenance programme for the constructed wetland that includes, but is not limited to, details of how the extent of the areas within the wetland that require plant coverage will be maximised and how the plants within the wetland will be maintained.
- 17 To prevent damage to the wastewater treatment system, stock shall not be allowed to enter any area that is utilised for the treatment of wastewater.
- 18 The Consent Holder shall, within six months of the date of commencement of these consents, forward to the Northland Regional Council’s Monitoring Senior Programme Manager a list of all existing connections to the Omapere and Opononi Wastewater Treatment System that are outside the townships of Omapere and Opononi, as defined by the operative Far North District Council Plan.
- 19 The Consent Holder shall monitor these consents in accordance with Schedule 1 (**attached**). If the monitoring results show that any of the following determinants in the treated wastewater are exceeded, as measured at NRC sampling site 101580:

Determinand	Median Concentration	90 percentile Concentration
5 day Biochemical Oxygen Demand (grams per cubic metre)	20	35
Escherichia Coli (per 100 millilitres)	3,000	5,500
Total ammoniacal nitrogen (grams per cubic metre)	30	38
Total suspended solids (grams per cubic metre)	35	80

The Consent Holder shall, within one month of becoming aware of any exceedance, forward to the Northland Regional Council’s Monitoring Senior Programme Manager a written report that provides the following:

- (a) Reasons for the exceedance;
- (b) What actions are required to correct the exceedance and prevent it from re-occurring again; and
- (c) What actions are intended to be actually undertaken by the Consent Holder to correct the exceedance.

Advice Note: The Northland Regional Council may undertake receiving water sampling of the Hokianga Harbour in the event that there is a non-compliance with any of the trigger level concentrations.

- 20 The Consent Holder shall undertake an investigation into alternative land areas that are considered by local Iwi to be suitable for the discharge of treated wastewater to land from Opononi and Omapere townships. This investigation shall then be completed within 18 months of the date of commencement of these consents. A written report shall be forwarded to the Northland Regional Council's Monitoring Senior Programme Manager within two years of the date of commencement of these consents which includes, but is not limited to, the following:
- (a) A detailed map showing the land areas that are considered by local Iwi as being suitable for a discharge to land of treated wastewater.
 - (b) Details of the Consent Holder's investigation into these identified land areas being utilised as wastewater disposal areas.
 - (c) Conclusions on whether the identified land areas can technically be utilised as treated wastewater disposal areas.
- 21 The Consent Holder shall, for the purpose of discussing matters relating to this consent, form a community liaison group consisting of representatives from the Pakanae, Kokohuia, Waiwhatawhata and Waimamaku Marae (Nga Marae O Te Wahapu), Te Runanga O Te Rarawa and also a duly appointed representative from each of the Omapere and Opononi communities. The Consent Holder shall hold a meeting with the liaison group not less than once every year to discuss matters related to these consents. The meeting shall only be held if a representative(s) of the community liaison group request a meeting with the Consent Holder. If such a request is made, then the Consent Holder shall organise a meeting at a local venue for members of the community liaison group to attend, and invite all other representatives of the community liaison group. The meeting shall be held at a time convenient for the majority of the community liaison group. Until such time as the investigation into alternative land disposal areas has been completed, the Consent Holder shall meet with the community liaison group quarterly to discuss progress with the investigation. The Consent Holder shall organise these meetings at a local venue and invite all members of the community liaison group to each meeting. The meeting shall be held at a time that is convenient for the majority of the community liaison group members.
- 22 The Consent Holder shall, for the purposes of adequately monitoring the consent as required under Section 35 of the Resource Management Act 1991, on becoming aware of any contaminant associated with the Consent Holder's operations escaping otherwise than in conformity with this consent:
- (a) Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape;

- (b) Immediately notify the Northland Regional Council's Monitoring Senior Programme Manager, Northland District Health Board's On-call Health Protection Officer and the community liaison group for this consent, by telephone of an escape of contaminant;
 - (c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (d) Report to the Northland Regional Council's Monitoring Senior Programme Manager and the community liaison group for this consent in writing within one week on the cause of the escape of the contaminant and the steps taken or being taken to effectively control or prevent such escape
- 23 The Northland Regional Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder within two months of the date that it formally receives a report required in accordance with Conditions 19, 20, 22, and Schedule 1, of its intention to review the conditions of these consents.
- 24 The Regional Council may, in accordance with Section 128 of the Act, serve notice on the Consent Holder of its intention to review the conditions of these consents annually during the month of June. The review may be initiated for any one or more of the following purposes:
- (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Northland Regional Council's monitoring of the state of the environment in the area;
 - (b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment;
 - (c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent;
 - (d) To deal with any inadequacies or inconsistencies the Northland Regional Council considers there to be in the conditions of the consent, following the establishment of the activity the subject of the consent;
 - (e) To change existing, or impose new limits on, conditions relating to the quality of the discharge and the receiving waters;
 - (f) To change the monitoring programme contained in Schedule 1; and
 - (g) To deal with any material inaccuracies that may in future be found in the information made available with the application (notice may be served at any time for this reason).

The Consent Holder shall meet all reasonable costs of any such review.

EXPIRY DATE: 31 AUGUST 2019

SCHEDULE 1

MONITORING PROGRAMME

The Consent Holder shall undertake the following monitoring:

1 Wastewater volumes

The Consent Holder shall keep a written record of both the daily, midday to midday, inflow volumes to the treatment system and the wastewater discharge volume using the meters required by Condition 4 of this Consent.

2 Treated wastewater

The following sampling and analyses shall be undertaken on at least one occasion each calendar month. During the winter months, the sampling shall be undertaken during, or immediately after, a rain event on at least three occasions.

A composite* wastewater sample shall be collected from the outlet of the treatment system at NRC Sampling Site 101580: Marsh discharge.

The composite wastewater sample shall be analysed for the following:

Escherichia coli
5 day Biochemical Oxygen Demand
Total Suspended Solids
Total Ammoniacal Nitrogen

**A sample made up of equal volumes from three samples taken at least one minute apart during the same sampling event.*

Temperature, pH and dissolved oxygen concentration shall be recorded in the wastewater sample using an appropriate meter, and in accordance with standard procedures.

3 Compliance with Condition 19

Median Value

The median value for the determinands listed shall be a “rolling” median calculated on the 12 most recent treated wastewater samples collected. Until such time as 12 individual monthly samples have been collected, the results of sampling to date shall be utilised for compliance purposes.

3.2 90th Percentile Value

The 90th percentile value shall be calculated annually for the period 1 May to 30 April using, as a minimum, the results from the monthly sampling required by Section 2. Until such time as 12 individual monthly samples have been collected, the results of sampling to date shall be utilised for compliance purposes.

4 Collection of Samples

All samples shall be collected using standard procedures and in appropriate laboratory supplied containers.

All samples collected as part of this monitoring programme shall be transported in accordance with standard procedures and under chain of custody to the laboratory.

All samples taken shall be analysed at a laboratory with registered quality assurance procedures[#], and all analyses are to be undertaken using standard methods, where applicable.

[#] Registered Quality Assurance Procedures are procedures which ensure that the laboratory meets recognised management practices as would include registrations such as ISO 9000, ISO Guide 25, Ministry of Health Accreditation.

5 Non-compliance with Consent Conditions

The Consent Holder shall notify the Regional Council of any non-compliance of the “rolling median” trigger level concentrations stated in Condition 19 immediately after the results of the monitoring required by Sections 2 are known.

If the Consent Holder detects any noxious, dangerous, offensive or objectionable odours at the legal boundary of the treatment system, then the Regional Council should be notified immediately.

6 Reporting

The Consent Holder shall forward an annual report to the Regional Council’s Monitoring Senior Programme Manager and the community liaison group for this consent by 1 May each year, for the preceding year 1 April and 31 March, detailing the following:

- The daily wastewater inflow and discharge volumes, and
- An assessment of any increase in the inflow volumes as a result stormwater infiltration and inflow, and what is proposed to be undertaken to rectify any identified problems. The daily rainfall record for this area shall be included in this assessment to identify rainfall events; and
- The monitoring results for Section 2; and

- All the calculated “rolling” medians for the period and the 90 percentile value for the determinands listed in Condition 19.

All required numerical monitoring results shall be provided in a Microsoft Excel spreadsheet, or otherwise an alternative format agreed to beforehand with the Regional Council.

Advice Note: The daily rainfall can be taken from the Regional Council rainfall recorder site 534403: Hokianga Harbour - Omapere. This data will be supplied by the Regional Council on written request by the Consent Holder.

11. REASONS FOR THE DECISION

The purpose and principles of the Resource Management Act 1991 specifically Sec.5 (2) States:

“In this Act, “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 reasonable 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.”*

The Opononi/Omapere Wastewater Treatment Plant was established in the early 1980's because of environmental and health problems and without the provision of this infrastructure there could not be further development.

The Community being serviced by this scheme is reliant on its continuance to provide for their social, economic and cultural wellbeing and for their health and safety. To decline these applications would have a major adverse effect on it.

Submissions to the consent applications have indicated that at this time the proposals are the best practicable option, as required by the policies and objectives of the relevant planning documents. While these documents refer to the disposal of treated effluent to land as opposed to discharge to coastal waters, the Applicant has agreed to further investigate land disposal options in consultation with tangata whenua and the community to establish if the alternative for land disposal is a feasible alternative.

The evidence presented indicates that the adverse effects of these applications will be no more than minor on the coastal waters.

The term of the consent of ten years is to accommodate the investigations for land disposal being undertaken, and a timeframe for consent processing.

Commentary on Conditions of Consent

The conditions of consent include trigger levels for the quality of the treated wastewater that are based on the current quality, increased monitoring of the treated wastewater quality and the ability for the Northland Regional Council to review the conditions of consent should the treated wastewater quality not be maintained to at least its present quality. This will ensure that even with the increase in the daily discharge volume, the level of treatment will remain similar. It is considered that there are currently technical options available that will allow the Consent Holder to achieve this.

The formation of a community liaison group with the requirement to meet quarterly during the alternative land disposal option investigation allows local Marae to participate in that investigation and be kept fully informed of its progress.

The conditions of consent, including those above, have been specified in order to avoid, remedy, or mitigate any adverse effects that may result due to the exercise of these consents.

Issued this Thirteenth Day of January 2009

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L Hill
Chairperson
Hearings Committee