

To: Hearing Commissioners, Northland Regional Council

Submitter: Te Mauri o Te Wai

Submission on: Revised Consent Conditions for Opononi/Omapere Wastewater Treatment Plant and the Kohukohu Wastewater Treatment Plant

Applicant: Far North District Council

Description of activity: Discharge permit to discharge wastewater

Kia tiakina nga taonga tuku iho mai I nga tupuna tae noa ki te tino tupuna ko te Atua. Kia tiakina nga taonga tuku iho ara ko te mauri o te wai. To acknowledge, protect and promote the intrinsic value of water and its ecosystems. To advance the vision of no human effluent in the Hokianga Harbour. To support and enhance the life force of the water of the Hokianga Harbour.¹

1. Introduction

Te Mauri o Te Wai (TMOTW) is an incorporated society formed to acknowledge, protect and promote the intrinsic value of water and its ecosystems. TMOTW advocates toward the goal of no human effluent in the Hokianga Harbour (the Harbour), and in doing so, seeks to enhance the mauri of the Harbour. TMOTW encourages our whānau, hapū, iwi, taitamariki, kaumatua and the broader Hokianga community to interweave. Three iwi are affected by the wastewater consents: Ngapuhi, Te Rarawa and Te Roroa. Kia tiakina nga taonga tuku iho mai i nga tupuna tae noa ki te tino tupuna ko te Atua. Kia tiakina nga taonga tuku iho ara ko te mauri o te wai. Climate Change is a consideration also.

TMOTW welcomes the opportunity to submit on the revised consent conditions (Conditions) for the Opononi/Omapere and Kohukohu wastewater treatment plans provided by the Far North District Council (applicant). While TMOTW support certain revisions, we make recommendations for both the refinement of existing revisions, and the introduction of new conditions that we believe will allow the transition to land-based discharge.

We see the Conditions as canvassing four broad topics; (1) Discharge of Contaminants, (2) Community Liaison Group (CLG), (3) Monitoring, and (4) Consent term. Our submission will address each of these aspects in turn, providing a commentary as to their relevance.

2. Discharge of Contaminants

The relevant conditions are 13-27 with conditions 18 and 19 acting as the core discharge mechanisms.

Condition 18 requires the implementation of chemically assisted solids removal and UV disinfection treatment, while condition 19 sets the quality of treated wastewater at the final outlet.

While we recognise that the implementation of chemically assisted solids removal and UV disinfection treatment would improve the standard of discharge, it is possible that their implementation may not be needed at all. Electro-coagulation (currently being implemented in Rawene) may be an affordable alternative to harbour discharge even in the short term while land-based discharge is sought. The wording of the Conditions must be carefully drafted to ensure that any interim measures to improve the quality of existing discharge are consistent with the purpose of the

¹ The Constitution of Te Mauri o Te Wai, at 1

consent which is to seek alternatives to discharge into the harbour. The CLG should be given opportunity to seek other solutions, and not be forced into accepting the solids removal and UV treatments merely because the applicant has proposed it be so.

The interplay between conditions 18 and 19 raises serious cause for concern. Crucially, condition 19 sets the E.Coli per 100 millilitre determinant at the 90th percentile at 3,000 – but *only after* the chemically assisted solids removal and UV disinfection treatment upgrades have been completed. The applicant seeks to set a much higher E.Coli 90th percentile rate during the period *before* these upgrades have been completed. Given that condition 18 must be implemented within three years, the applicant is in effect, allowing a substantively higher discharge than was previously consented to occur for a full three year period.

The rate suggested for the 90th percentile is 24,000 and the median 4,400. For the 90th percentile, this is more than 4 times the amount previously consented. To TMOTW, the figure of 24,000 represents an insight into the practical reality of the Opononi/Omapere discharge plant as it currently operates. Attached at Appendix A is a page of the Opononi/Omapere treatment plant discharge of E.coli concentrations for the year 2017/2018 in which breaches of consented limits appear in red. On 9 different occasions the median E.Coli per 100mL limit were breached at 24,196, while the single recording taken in May 2018 for the 90th percentile also sits at 24,196.

The Conditions appear to be a blatant admission by the applicant as to the practical reality of the level of discharge into the harbour.

TMOTW urge the commissioners to reject the median and 90th percentile concentrations proposed by the applicant. Not only do they exceed limits prescribed by the previous resource consent, but there is also a real danger in these figures acting as the new existing baseline in a subsequent consent. If these Conditions are accepted, there is a foreseeable danger in concentration limits simply driving higher and higher in future consents. That must be avoided.

TMOTW also note the absence of a 95th percentile limit in the Conditions. Allowing for a 95th percentile limit value would provide a more restrictive approach, in that it would allow only 5% of the samples to exceed the percentile value without violating consent conditions. As was clearly found in the consent hearing, the applicant has committed a number of breaches of resource consent conditions and thus, any mechanism that restricts the number of breaches permissible is highly recommended.

A short term consent should not be used as a way to drive up the discharge of contaminants. That is contrary to the purpose of the consent which is to seek alternative solutions.

We recommend:

- That a 95th percentile limit is introduced;
- That discharge of contaminants do not exceed previously consented limits;
- That the CLG be given opportunity to seek other solutions, and not be forced into accepting the solids removal and UV treatments.

3. Community Liaison Group

The relevant conditions are 7-10. We are pleased to see the return of community liaison groups (CLG's) forming part of the Conditions.

Formation

The purpose of the CLG is to work with the applicant to find cultural, environmental, social and economic wastewater solutions. To TMOTW, the CLG properly formed, must consist of hapū and the

local community, who have selected their own representatives and developed their own terms of reference. Therefore, while we acknowledge the applicant's inclusion of CLG's, we recommend that a more allocative approach is adopted when considering who forms the make up of the CLG. Ngā hapū o Hokianga and the Opononi/Omapere community should not have dictated to them who is, or who is not to be an appropriate representative, but should instead be given the reins to lead this process.

Therefore, we submit that that the CLG process should be lead and directed by the local hapu and communities in both the Opononi/Omapere and Kohukohu areas.

Substance

The nature of this consent is to create a short-time frame in which alternative methods to discharge can be investigated and set in motion. In light of this, we submit that the requirement for the CLG to meet annually is wholly insufficient to meet the nature of the consent. Annual meetings simply do not provide enough time to work through the necessary issues which include:

- To share and discuss information on the performance of the WWTP;
- Discuss and make recommendations on WWTP maintenance;
- Discuss and make recommendations that are given effect to, on alternative discharge and treatment options.

TMOTW also note the glaring absence of milestones to investigate and implement alternative forms of discharge. The only mention of alternatives within the Conditions is that which we have highlighted in the third bullet above.

The purpose of a short-term consent was to be able to generate enough time to seek alternatives to harbour discharge, while recognising that the existing discharge could not simply be halted overnight. That purpose is not recognised in the Conditions. The key function of the CLG in this consent is to conduct hui to facilitate discussion on the investigation of land-based treatment systems and recommend appropriate solutions.

Despite this, there are no mention of milestones that are to be reached within the three-year period. Without such information, it remains entirely unclear what 'discuss and make recommendations to alternative discharge options' actually means. For example, what level of investigation is required? Who must be consulted? What level of support must the applicant give to the CLG throughout this process? Without these answers, ngā tangata o Hokianga cannot have any trust or confidence in this process.

Our recommendations for the CLG are as follows:

- That the purpose of the CLG is specified, and includes (with significant council support) to find a culturally and environmentally appropriate land based treatment system within the consent time frame;
- That specific milestones are set to facilitate this purpose;
- That the CLG construct the Terms of Reference which includes composition, frequency and location of hui;
- That the CLG hold an annual hui to inform the community of progress and invite participation and discussion in the process.

Please refer to the conclusion section for our recommendations as to timelines.

4. Monitoring

The relevant conditions are 1-6, 11-17 and Schedule 1.

In order to avoid repeating points, please refer to point 2 of this submission for our submission on wastewater concentrations.

TMOTW support the conditions which encourage the improvement and transparency of monitoring, and so approve of the design of the following conditions:

- That the applicant must keep written record of all maintenance required and undertaken;
- The forwarding of monitoring results to Northland Regional Council;
- The installation of a stock proof fence;
- The creation of a site management plan.

However, TMOTW **recommend** that in order to build community trust, and in the spirit of transparency, that the CLG is included as a group that receives reports as to:

- The maintenance required and undertaken of the WWTP;
- Monitoring results
- The site management plan.

Additionally, TMOTW **recommend** that the applicant supports cultural monitoring practises if they are recommended by Ngati Korokoro (Opononi/Omapere consent), or Te Ihutai (Kohukohu consent).

5. Consent Term

TMOTW are pleased to see that the consent term has been reduced to three years. We believe that with implementation of our recommendations within this document, an alternative to harbour discharge can be found.

TMOTW also wish to comment as to the applicant's ability to exercise a resource consent while applying for a new consent.

Section 124 of the Resource Management Act allows the holder of a consent to continue operating under an existing consent until a new consent is granted. This allows a consent holder to continue to do the same activity even though the consent terms has expired.

Crucially though, this can only be exercised when the holder of a consent applies for a new consent for the same activity (section 124, subsection (1) paragraph (b)). TMOTW submit that section 124 does not apply in the circumstances of this consent, due to the nature of the proposed consent being for a different activity. The proposed short-term consent differs from the previous discharge consent because it's aim is to investigate alternative methods of discharge.

Section 124 cannot be relied upon because the intent of this upcoming consent is to move toward land based discharge. As we are looking to draft performance measures over time for land based investigations, these measures need to be drafted with the frame in mind that they need to be met in 3 years.

6. Timeline/milestones

Key to this short term consent is the adherence to strict milestones which ensure the transition to alternative solutions. We propose the following timeline:

- **Year one:**

- CLG is formed and sets the Terms of Reference, outlining key milestones;
- The applicant gains a clear understanding of the cultural values and information that hapu (for the Opononi/Omapere consent and the Kohukohu consent)/ choose to share, with the expectation that this information will inform the process;
- Cultural values, sites, tikanga are given the weight that the CLG chooses in any decision making matrix
- Investigate and analyse precedents for wastewater treatment and land-based discharge. This includes local examples such as Rawene and Taipa;
- **Year two:**
 - a thorough, on the ground, investigation and analysis of suitable site/s for treatment and discharge, including engagement with land owners.
- **Year three:**
 - work with the applicant and CLG to find funding to set the system in motion.

