

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE NORTHLAND REGIONAL
COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of applications by the Far North District Council for resource
consents associated with the operation of the East Coast Bays
Wastewater Treatment Plant

APPLICANT'S RESPONSE TO MINUTE # 3

22 JULY 2019

ATLAS LEGAL LIMITED

J S Baguley

PO Box 144

Kerikeri 0230

Phone: (09) 401 6537

Email: jo@atlaslegal.co.nz

APPLICANT'S RESPONSE TO MINUTE # 3

Introduction

1. This memorandum addresses the issues raised by the Commissioners in Minute # 3 dated 17 July 2019.

Further information required on the "shopping list"

2. Paragraph 3 of the minute states:

" 3)We received the Right of Reply on 15 July 2019. However, having read it we note that a number of the matters on the 'shopping list' have not been provided, namely:

- i) An update of Table 1 of Dr Macdonald's evidence which is to include the full analysis of all the available data (i.e. February 2012 to present) and also an additional column showing the number of 'exceedances' as was included in the AECOM table which formed the basis of Dr Macdonald's Table 1 - Table 1 of Dr Macdonald's evidence presented statistics based on data between February 2012 to May 2015 and she stated she had reviewed the data obtained since May 2015 but had not presented it in her evidence but gave a commitment that she would do so and include it in the Right of Reply; and*
- ii) An update of Table 3 of Dr Macdonald's evidence showing expected median and 95%ile statistics for the determinants listed in that table as well the expected median and 95%ile statistics for total ammoniacal nitrogen and total faecal coliform concentrations following an upgrade of the WWTP by way of an SBR."*

3. The Applicant responds as follows:

- a. The Applicant considered that it had covered all matters in the shopping list that it is able to, based on the data it had available in its Reply. However, because the shopping list was provided verbally, there may have been a different understanding of what was required.
- b. Dr Macdonald presented the 2012-15 data (AECOM report) at the hearing so as not to complicate matters with two different data sets over different time periods. When asked to review more recent data, a data set covering the most recent 18 months was deemed appropriate. This data set includes two winters, when pond performance drops as well as periods when the aerated lagoons were being de-sludged. The analysis of this recent

data set formed the table in paragraph 4 of Dr Macdonald's Reply Statement and is considered representative of the current operation of the Plant. Dr Macdonald considers that repeating the analysis with data from 2012 to 2019 is unlikely to add any value to the two analyses already completed.

- c. Following the hearing, Dr Macdonald reviewed the available information and found that there have been insufficient studies done to accurately predict the performance of an SBR upgrade at the Plant. A conceptual design of the SBR to include treatment modelling would be required to provide the requested information with sufficient confidence in the predicted treatment performance. This level of study has not been undertaken by Council for SBR technology, as it is costly and would take a few months to complete. As stated in her evidence, Dr Macdonald provided a review of the studies undertaken to date, which concluded an SBR is likely to be suitable for ammoniacal nitrogen removal based on the information provided. The next phase will be to select the preferred option and then undertake modelling and design of this preferred option. The Commissioners have been provided with the best available information.

Explanation of suggested changes to conditions

4. Paragraph 5 of the Minute states:

"5) A set of suggested changes to Mr Tait's conditions has been provided with the Right of Reply. Some of suggested changes have associated comments (in the form of boxes in the margin of the Track Changes version of the conditions document), however not all of the suggested changes include comments/reasons for the suggested changes (including some that are substantive changes to conditions). We request that the Applicant provides a complete commentary on the rationale/reasons for all the suggested changes."

5. **Annexed** hereto marked "**A**" is a clean copy of the proposed consent conditions with improved commentary on the rationale/reasons for the suggested changes.

Conditions which were proffered at hearing but not included in amended draft conditions

6. Paragraph 6 of the Minute states:

“6. More importantly, we note that the suggested changes to conditions do not include a number of the critical commitments/recommendations made by the Applicant (and its experts) at the hearing, in particular:

i) Dr Macdonald recommended that a six month timeframe (from the date the consent being granted) be imposed for the Applicant to identify its preferred WWTP upgrade option to reduce total ammoniacal nitrogen (TAN) concentrations to an annual 95%ile of 15 grams per cubic metre. She then recommended that a three year period be specified to require the Applicant to have implemented the WWTP upgrades and to have proven that the specified discharge standards have been met – this being based on at least 12 months of monitoring of the discharge from the WWTP - this commitment and these timeframes are not reflected in the conditions;

ii) Dr Macdonald stated that, following the upgrade of the WWTP to meet the above discharge standard, the treated wastewater would be of a quality such that it could continue to be discharged to water but it would also be of a standard that could be discharged to land. She confirmed the WWTP would be upgraded to reduce TAN concentrations in the timeframe specified above irrespective of whether land disposal was shown to be a practicable option - that commitment is not reflected in the conditions;

iii) Dr Macdonald stated that including a condition which would ensure the Applicant protects the base of the ponds during desludging so as to minimise leakage/seepage from the ponds would be a good idea - no condition to this effect has been included;

iv) Mr Hegarty recommended conditions which would require the Applicant to install groundwater monitoring bores around the wetland to determine whether the seepage is adversely affecting downgradient groundwater quality. He also agreed that monitoring groundwater quality around the treatment ponds (not just around the wetland as he initially proposed) should be required. In answers to questions Mr Hegarty agreed that the conditions should also include the ability for the conditions of consent to be reviewed should the monitoring show that seepage is causing adverse effects on downgradient groundwater quality – these conditions have not been included; and

v) Mr Hegarty recommended that an Odour Management Plan be required and he included a recommended wording for such a condition - no such condition has been included.”

7. The Applicant responds as follows:

- a. The evidence discussed above was presented based on information available at the time. The Applicant's expert witnesses have since revised their opinions based on the new evidence at the hearing and discussions with Mr Tait regarding timelines in drafting the amended draft consent.
 - b. Following discussions with Mr Tait and the Applicant's operational staff, an implementable timeline has been developed. Resource consent monitoring data can be used to inform the design. This is the timeline offered in the amended draft conditions.
 - c. Dr Macdonald does not consider that the Minute accurately summarises the statements she made during the hearing. She summarises her opinion as follows: Treatment and disposal go hand in hand, with the disposal route informing the treatment requirements. An upgrade of the Plant to treat the wastewater to a suitable standard for freshwater receiving environment would likely be suitable for land disposal, but site specific studies (for example hydro-geological, geotechnical etc..) would be required at any preferred disposal site to confirm the treatment requirements. . Dr Macdonald did not state that the treatment plant would be upgraded. She is unable to make commitments on behalf of the Applicant. However, she did state that the treatment train could be upgraded within the timeframe she presented.
8. Following evidence presented at the hearing and further discussions with Mr Tait, the Applicant is no longer proposing the conditions set out in paragraphs 6(iii)-(iv) of the Minute because they are no longer considered necessary by Mr Hegarty and Dr Macdonald.

Footnotes in the Minute

9. Footnote 1 in the Minute states:
- "1) We note the changes to Mr Tait's recommended conditions have the WWTP name as 'East Coast Wastewater Treatment Plant' however the Applicant's Right of Reply refers to it as the (our emphasis) 'East Coast Bays Wastewater Treatment Plant' as does the Application document."*

10. In response, as stated in the commentary in the attached document, the Applicant would prefer to delete the word “Bays” from the name of the plant because this name is no longer commonly used and creates confusion.

11. Footnote 2 in the Minute states:

“2) We note that Dr Macdonald’s Evidence in Chief prepared for the hearing has her surname spelled ‘Macdonald’ but in her Reply Statement her surname is spelled ‘MacDonald’.”

12. The correct spelling is “Macdonald”.

13. Footnote 3 of the Minute states:

“3) We note that Dr Macdonald includes a table at paragraph 4 of her Reply Statement, however that only appears to present statistics for the period between January 2017 to June 2019, however that is not what was discussed or requested at the hearing.

14. This is discussed above at paragraphs 3(b) and 3(c).

Dated 22 July 2019



J S Baguley

Counsel for the applicant