

Comments on Conditions: Matawii Water Storage Reservoir, Kaikohe, Fast-track Application

1. Contact Details

Please ensure that you have authority to comment on the application on behalf of those named on this form.

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2. Comments on Conditions

Background

The application is for the construction and operation of a water storage scheme near Kaikohe in Northland. The Director-General of Conservation provided comments on the proposal on 17 September 2020, and those comments included suggested consent conditions.

The Expert Consenting Panel has now provided its intended draft conditions of consent, and invited comment from the Director-General. Those comments are shown in the table below.

As with the original comments, if there are any matters where the Panel would like further information, or has questions, staff are available to respond as required.

Comments

Condition	Comment
Management Plans	
27	<p>My original comments on the proposal sought that DOC be consulted as part of preparing a number of management plans, where they could affect ecological and conservation outcomes. The Panel's draft conditions only included this for plans that directly address ecological activities.</p> <p>Despite that, I consider that the Construction Environmental Management Plan is also critical to understanding and managing the environmental effects of the development, especially as it will include much of the detail that would normally have been available to DOC through the submission and hearing process of a non-fast-track consent. I therefore request that DOC is consulted prior to certification of this plan as well:</p> <p><i>“ The Consent Holder must, prior to the commencement of any site work, prepare and submit to the NRC Responsible Officer for certification a Construction Environmental Management Plan (CEMP) which sets out the methodologies, practices and procedures to be adopted in order to manage the operational aspects of the consented work. <u>Prior to submitting the CEMP for certification, a copy of the draft CEMP must be provided to the Department of Conservation with an invitation to provide feedback. The Consent Holder must ensure that all written feedback received from Department of Conservation on the draft CEMP is provided to the NRC Responsible Officer when it is submitted, along with a clear explanation of where any comment made has or has not been incorporated into the plan and the reasons why. No works can be undertaken until the CEMP has been certified in accordance with Conditions 4 to 7.</u>”</i></p>
Flushing flows	
57	<p>I generally support the proposed condition. However, given that the effect being managed is ecological, rather than hydrological, I consider that ecological input required prior to, or as part of, the Council's certification. This could be addressed through a similar peer review requirement to that used in Condition 84:</p>

	<p><i>“... should the periphyton trigger level be met. <u>Prior to certification the plan must be peer reviewed by a suitably qualified and experienced ecologist and must incorporate the peer review comments and recommendations.</u>”</i></p>
Fish screens	
65	<p>While it would be preferable if the design was available now to be directly incorporated into the consent, the draft wording reflects the second option proposed by the D-G, with the addition of some minimum design parameters. Given the fish species present, the default mesh size should be no greater than 3 millimetres:</p> <p><i>“...and have no holes or slots with a diameter or width greater than <u>53</u> millimetres...”</i></p>
66	I support the inclusion of this condition and the proposed wording.
67	I support the inclusion of this condition and the proposed wording.
Eel passage	
77	<p>The Panel has included a requirement that the consent holder must consult with DOC regarding the eel passage methods proposed to be used. While this is not as specific as the wording proposed in the D-G's original comments, it does provide an opportunity for input and so is supported.</p> <p>However, the Panel's draft does not require eel passage to be maintained during construction, as sought by the D-G. This raises significant concern, as the construction appears likely to take two years or more. I therefore recommend that the wording from the original comments be adopted. I note that if there is a need to temporarily obstruct passage for some periods during construction then this could be accommodated within the management plan, but including it within the plan would help ensure that effects are managed and minimised:</p> <p><i>“Upstream and downstream passage for native eels must be provided during the <u>construction and operation</u> of the Matawii Water Storage Reservoir. The methods for provision of native eel upstream and downstream passage during the <u>construction and operation</u> of the Matawii Water Storage Reservoir must be documented in the <u>Construction Environmental Management Plan and the Operational Reservoir Management Plan</u>. Prior to finalising the eel passage methods, the Consent Holder must consult with the Department of Conservation regarding the methods proposed to be used.”</i></p>
78	I generally support the inclusion of this condition and the proposed wording, but consider that a longer timeframe is required to ensure that monitoring can detect whether or not the measures are successful:

	<p><i>“Within one year following completion of the dam and for a period of not less than two <u>five</u> consecutive years but not exceeding five <u>seven</u> consecutive years, the Consent Holder must carry out a quantitative annual survey specifically designed to determine the relative success of upstream movement of eelers into the upstream Kopenui Stream catchment. The findings of each annual survey must be provided to the NRC’s Responsible Officer by 1 May each year.”</i></p> <p>I note that this condition does not define “relative success” in terms of eel passage, and I expect that appropriate criteria for this would be addressed as part of developing the methods under condition 77.</p>
<p>Ecological management</p>	
<p>83</p>	<p>I support the proposed wording as set out for this condition addressing Ecological Management Plans.</p> <p>However, there are two elements of the draft condition 86 (Biodiversity Offset and Compensation Plan) which are more appropriately considered as mitigation rather than offset or compensation, so would be better placed in this condition:</p> <p><i>“...Each plan must be in accordance with relevant sections of the document titled “Matawii Water Storage Reservoir: Assessment of Ecological Effects. 10 July 2020. Prepared by Puhoi Stour Ltd in association with Tonkin & Taylor Ltd. PSL Report Number 2020/02”, and must include, but not be limited to:...</i></p> <p><i>(g) <u>Planting proposals and plans for environmental enhancement of the Kopenui Stream upstream and downstream of the Matawii Water Storage Reservoir, including planting that is in general accordance with the “Draft Landscape mitigation concept” forming Figure 2c of the LVAA;</u></i></p> <p><i>(h) <u>Specifically addressing any adverse effects on the Significant Natural Area (SNA) – Kopenui Stream Remnants;</u>”</i></p>
<p>86</p>	<p>In general, I support the proposed condition, and the suggested changes are intended to improve clarity and implementation. Where elements of the draft condition are addressed in other conditions, or have been recommended to be relocated, I recommend that they be deleted from this condition.</p> <p>Suggested changes therefore are:</p> <p><i>“The Biodiversity Offset and Compensation Plan (BOCP) must be implemented by the Consent Holder and it must include, but not be limited to:</i></p> <p><i>(a) <u>Distinct and separate offset and compensation sections, to aid clarity over the long-term implementation of the plan;</u></i></p> <p><i>(b) Offset objectives to:</i></p> <p><i>(i) <u>achieve no net loss and preferably a net biodiversity gain as derived from the offset accounting model across ecosystem type, composition and structure;</u></i></p>

	<p>(ii) <u>minimise the delay between the loss of biodiversity from the project and the gain or maturation of biodiversity outcomes;</u></p> <p>(iii) <u>secure the outcomes of the offset so that they last at least as long as the impacts and preferably in perpetuity.</u></p> <p>(c) <u>Compensation objectives (based on proven and feasible ecological actions) to address the loss of individual Threatened or At Risk lizards and lizard habitat and any adverse effects on wetland bird foraging and roosting habitat and to secure the outcomes of the compensation actions so that they last at least as long as the impacts and preferably in perpetuity;</u></p> <p>(d) <u>A description of the offset, including the location, biodiversity elements (which have been described and measured), management activities required to achieve 5-yearly performance targets and ultimately the offset objectives, and details regarding the financial costs of site management and how these will be secured in the long term (including the use of bonds if appropriate);</u></p> <p>(e) <u>A description of the compensation location, targets and actions required to achieve the compensation objectives over a 35-year time period and details regarding the financial costs of site management and how these will be secured in the long term (including the use of bonds if appropriate)</u></p> <p>(f) <u>The offset accounting model, including worked spreadsheets, which has been calculated at 5 yearly intervals over a 35-year time period and quantitatively describes the biodiversity elements and components to be offset. The outputs of this model are to be used as performance targets to achieve no net loss.</u></p> <p>(g) <u>Considering existing hydrology and wetland connectivity when selecting an appropriate wetland offset site;</u></p> <p>(h) <u>Considering wetland offset plants that are suitable for nesting and foraging of wetland birds;</u></p> <p>(e) Planting proposals and plans for environmental enhancement of the Kopenui Stream upstream and downstream of the Matawii Water Storage Reservoir, including planting that is in general accordance with the “Draft Landscape mitigation concept” forming Figure 2c of the LVAA;</p> <p>(i) <u>The measures to be undertaken to strengthen and complement the natural vegetation patterns within the site and immediately surrounding area;</u></p> <p>(g) Specifically addressing any adverse effects on the Significant Natural Area (SNA) — Kopenui Stream Remnants;</p> <p>(h) Requiring the relocation of existing swamp maire trees if that is practicable;</p> <p>(i) Identification of other sites where ecological restoration and enhancement activities will take place and how, including but not limited to, initial and operational pest plant and animal eradication measures;</p> <p>(j) <u>Legal mechanisms proposed secured prior to the development works to protect areas used for ecological restoration and enhancement</u></p>
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	<p>activities <u>biological offsetting and compensation in perpetuity including the fencing of those areas and the exclusion of grazing stock from them;</u></p> <p><u>(k) A legally binding agreement with the relevant landowners to allow access, in perpetuity, to the offset and compensation areas for management purposes, should this be necessary;</u></p> <p><u>(l) Annual monitoring of areas used for ecological restoration and enhancement activities biological offset and compensation and whether or not the objectives, performance targets and performance standards specified in the BOCP have been met and requiring the replacement of any failed plantings;</u></p> <p><u>(m) Provision of five-yearly reports to the NRC and the FNDC Responsible Officers outlining the results of the monitoring under (k) offset and compensation actions completed in that 5 year period, including an evaluation of the progress of the offset and compensation; results of the monitoring under (l); and a description of the next set of actions to be undertaken to achieve the offset and to achieve the compensation package.</u></p> <p><u>(n) A process to review and redesign offset and compensation actions should they not be achieving or likely to achieve the offset or compensation performance targets.”</u></p>
86	<p>Following further review, I recommend that when the compensation package is prepared (through the Biodiversity Offset and Compensation Plan), consideration be given to including plantings of the Nationally Critical, and extinct in the wild, aquatic fern <i>Isoetes</i> aff. <i>kirkii</i> (Omapere). It is currently only known from 12 plants in a water tank at the NIWA research facility in Hamilton.</p> <p>It originally came from the nearby Lake Omapere, but due to water quality issues and the presence of grass and silver carp there, it no longer has any secure habitat in the wild. This proposed dam could potentially provide a habitat secure from pest (herbivorous) fish, where establishment/reestablishment in a wild (or artificial but wild-like) situation could be attempted/researched.</p> <p>Such a proposal would require support from NIWA and iwi, and may or may not be feasible, so I am not recommending that it be specifically included in conditions. Rather, I recommend that the applicant consider it as part of the compensation package when preparing the Biodiversity Offset and Compensation Plan - given the threat status of this plant, it could make a significant contribution to the overall compensation package.</p>
87	<p>This condition is placed after references to the Ecological Management Plans (EMP) and the Biodiversity Offset and Compensation Plan (BOCP), so the presumption is that it is intended to apply to both. DOC's input will clearly be necessary for the BCOP as well as the EMPs.</p> <p>For the sake of certainty, I recommend rewording this:</p> <p><i>“Prior to submitting each EMP and BCOP to the FNDC or NRC Responsible Officers for certification, a copy of each draft plan...”</i></p>

Kauri dieback	
89	<p>Given the risk involved, and after taking further advice, I now consider that the kauri tree on the project site should be assumed to have kauri dieback disease and managed accordingly. This avoids the delay and uncertainty of requiring testing, especially as there is a risk of a 'false negative'. Note that the risk relates not just to the tree itself, but also to the surrounding soil.</p> <p>Recommended rewording, which has also been revised to align with other draft conditions, is:</p> <p><i><u>"Prior to any work to remove the kauri tree identified on the project site, the Consent Holder must engage a suitably qualified and experienced person to assess whether the tree has kauri dieback disease (the presence of the pathogen <i>Phytophthora agathidicida</i>). If kauri dieback disease is present, then the <u>The consent holder must engage a suitably qualified and experienced person to prepare a Kauri Dieback Disease Risk Management Plan for the kauri tree identified on the project site. The Management Plan must be prepared in consultation with the Department of Conservation, and submitted to the NRC and the FNDC Council Responsible Officers for certification at least one month prior to vegetation removal or earthwork starting, and all work must be undertaken in accordance with that Plan.</u>"</u></i></p>
Effects of use of water	
	<p>As noted in my original comments, Policy 3 of the NPSFM 2020 is that freshwater is managed in an integrated way, and this includes consideration of the effects of the use and development of land and of effects on receiving environments.</p> <p>I therefore retain my concern that the effects of the use of water need to be monitored and managed. The Panel's draft conditions do not address this, but it would be both reasonable and appropriate to add provision for monitoring and reporting to draft Condition 93, and the ability to respond via review to Condition 122.</p>
93	<p><i>"The Water Supply Management Plan must include but not be limited to:...</i></p> <p><i><u>...(d) Monitoring and reporting on the land use activities supplied with water from the scheme, including a breakdown showing the land areas used for horticulture, intensive farming, and industrial activities. Where that monitoring shows a change in land use as a result of the scheme, the reporting shall also include an assessment of the actual and potential impact of those changes on downstream groundwater and surface water quality and ecosystems.</u>"</i></p>
122	<p><i>"NRC or the FNDC may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention</i></p>

	<p><i>to review the conditions of this consent within three months of each anniversary of the commencement of the consent for any one of the following purposes:...</i></p> <p><i>...(d) determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, including but not limited to any effects on groundwater or surface water or ecosystems as a result of use of scheme water identified by monitoring and reporting under condition 93(d) above; and/or..."</i></p> <p>Alternatively, this addition could also be incorporated into the new review clause (e) for Condition 122 recommended below.</p>
Monitoring	
95-99	<p>Although this condition requires monitoring and reporting of water quality, there is no process for responding to the results. Ideally the conditions would include limits or triggers, and defined actions to take should they be exceeded. However, as a minimum I recommend that there be specific provision in the review condition to allow response to monitoring results.</p>
100	<p>I generally support the proposed condition, but it would be more effective at detecting adverse effects on freshwater values if it also covered species abundance:</p> <p><i>"...The KSMP must include, but not be limited to, assessing changes in the growth of periphyton, changes to aquatic habitat, <u>changes in the species abundance of invertebrates, kāeo and fish,</u> and changes in water quality."</i></p> <p>As with conditions 95-99 addressed above, there is a need to be able to respond to the results of monitoring.</p>
122	<p>To provide a minimum ability to respond to the results of monitoring, I recommend a new clause be added along the lines:</p> <p><i><u>"...(e) reviewing the conditions of this consent to address any adverse effect on the environment which is shown by monitoring results provided under conditions 99 or 100.</u></i></p> <p><i>(e) <u>(f)</u> ensuring the conditions of this consent are consistent..."</i></p>