

Comments on Matawii Water Storage Reservoir, Kaikohe, a listed project under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Application Name:	<i>Matawii Water Storage Reservoir, Kaikohe</i>
EPA Reference:	FTC000016
Applicant:	<i>Te Tai Tokerau Water Trust</i>
Comments due by:	21 September 2020
Accessing the application:	The Matawii Water Storage Reservoir Fast-track application can be accessed here : https://www.epa.govt.nz/fast-track-consenting/listed-projects/matawii-water-storage-reservoir/application/

To comment on the Matawii Water Storage Reservoir application using the form below, please fill in the details and:

- **Email** the form to matawiifasttrack@epa.govt.nz
Please mark in the subject line: "Comments on Matawii Fast Track Application (Your name/organisation)"; or
- **Post** the form to Matawii Fast-track Application, Environmental Protection Authority, Private Bag 63002, Waterloo Quay, Wellington 6140. Please ensure adequate time is given for the form to be received in time; or
- **Deliver in person** to Environmental Protection Authority, Grant Thornton House, Level 10, 215 Lambton Quay, Wellington. Please note that due to potential changes in COVID-19 Alert Levels our reception may not be open to the public. We suggest phoning ahead to check.

Comments must be received by the EPA, on behalf of the Panel, on 21 September 2020.

If your comment is not received by the EPA on 21 September 2020 the Panel is not required to consider your comment (although it may decide to). Under the COVID-19 Recovery (Fast-track Consenting) Act 2020 there is no right to seek a waiver of the time limit.

If you are an iwi authority you may share the consent application with hapū whose rohe is in the project area in the application, and choose to include comments from the hapū with any comments you may wish to provide.

Important information

Your personal information will be held by the EPA and used in relation to the Matawii Water Storage Reservoir application process. You have the right to access and correct personal information held by the EPA. A copy of your comments, including all personal information, will be provided to the Matawii Expert Consenting Panel and the applicant.

All comments received on the application will be available on the EPA website.

If you are a company making comments on this application, your full business contact details will be publicly available. For individuals, your name and any information you provide may be publicly available. Your contact details (phone number, address, and email) will not be publicly available.

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Comment on the Matawii Water Storage Reservoir, Kaikohe, Fast-track Application

Please complete all parts of this form

The Matawii Water Storage Reservoir, Kaikohe, Fast-track application can be accessed here

1. Contact Details

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

Organisation name (if relevant):	Environmental Defence Society		
First name:	Gary		
Last name:	Taylor		
Postal address:	PO Box 91 736 Victoria St West Auckland 1142		
Home phone / Mobile phone:	██████████	Work phone:	021 895 896
Email:	██████████	██████████	

2. We will email you draft conditions of consent for your comment about this application.

<https://www.epa.govt.nz/fast-track-consenting/listed-projects/matawii-water-storage-reservoir/application/>



I can receive emails and my email address is correct



I cannot receive emails and my postal address is correct.

3. Please provide your comments on the Matawii Water Storage Reservoir, Kaikohe Fast-track Application

We welcome the opportunity to comment on the Matawii water storage reservoir application made under the Covid-19 Recovery (Fast-track Consenting) Act 2020.

Overall, we have concerns with respect to the general absence of an assessment of the proposal against the provisions of the National Policy Statement for Freshwater Management 2020 (NPSFM 2020). This is in two key senses: (1) consideration of how the end use of the water proposed for storage supports or does not support the intent of the NPSFM 2020, and (2) provisions related to the protection of wetlands under the NPSFM 2020 and related regulations.

General assessment of the proposal against the NPSFM 2020

- The proposal's AEE looks at the objectives and policies of the NPSFM 2014 (as amended 2017) in only cursory terms, especially with respect to water quality. It does not do so at all with respect to the NPSFM 2020. The NPSFM 2020 was gazetted on 5 August 2020, and at least from that point became a matter "relevant and reasonably necessary to determine the application" to which the panel must have regard. The application for consent was lodged after the NPSFM 2020 was gazetted.
- There is no legal provision specifying that an NPS that comes into force after a resource consent application is lodged does not apply. There is also nothing that states that a decision-maker must only have regard to a NPS if it was in force at the time an application for resource consent was lodged. As such, if a NPS has come into force after an application was lodged but before a decision is made, it must be considered. We also note that the NPSFM 2014 (as amended 2017) has now been repealed.
- We would expect further information/expert evidence to be obtained by the Panel to assess the proposal against the policies and objectives of the new NPS, especially given that one of only two express reasons the Panel can decline consent for listed projects is inconsistency with an NPS. The planning instruments for the Northland region do not yet reflect the water quality components of the NPSFM (although they will be obligated to do so as soon as practicable), so are not an adequate substitute for an assessment against the NPSFM itself.

Assessing the end use of stored water against the NPSFM 2020

- A subset of the above point is that we would expect a robust assessment of the extent to which the *end use* of stored water supports / does not support the intent of the NPSFM 2020. The application proposes several water takes, but does not look at the consequential effects of the use to which that water will or may be put including cumulative effects. It also does not assess such potential effects against the NPSFM (or the policies of the proposed Northland Regional Plan).

- Our concern is that there may be no further legal mechanism to prevent water takes, once authorised, being used to support primary industries ultimately harmful to freshwater quality, such as intensive dairying or conversions to dairying. Allowing the conversion of large tracts of land to intensive horticultural activities, as envisaged in the application, could also have adverse effects on water quality. Such effects need to be closely considered at this juncture and appropriate conditions imposed, or the application declined, because the intensification of rural land uses enabled by extensive irrigation would (generally) be permitted activities under the proposed Northland Regional Plan and Far North District Plan, and may not require further consent (in this light, close consideration should also be given by the Panel to how the new freshwater regulations would apply to any land use changes enabled by the project).
- We note that the Panel does not have to disregard effects that are permitted under the proposed Regional Plan. To disregard these effects would be contrary to the spirit of the NPSFM 2020, which aims to maintain or improve freshwater quality and which will need to be given effect to as soon as practicable in council planning instruments.
- We do not think that the adverse impacts of the possible end use of the water are too remote to consider. Indeed, much of the consent application presents reasons why the positive effects of the possible end use of the water *should* be given weight. Given the protective purpose and principles of the RMA, which have remained unaltered under the Covid legislation, it is crucial that the adverse effects of possible end uses are also considered.

Impacts on wetlands: the effect of the NPSFM 2020 and NESFM 2020

- As outlined in the AEE, the proposal will have significant adverse effects on existing wetlands and associated habitat, because these form part of the reservoir footprint. Among other things, there would be loss of 0.93 ha of wetland and 0.42 ha of ephemeral wet pasture grass. The wetlands in question are recognised as significant in terms of regional and district planning provisions. The destruction and removal of vegetation in a significant wetland is a non-complying activity under Rule C.2.2.5 of the proposed regional plan (appeals version).
- The NPSFM 2020 is not yet reflected in council planning instruments, but as outlined above is in our view a matter that must be considered by the Panel. Policy 6 of the NPS expressly seeks to avoid any further loss or degradation of wetlands (“there is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted”). This is a strong directive, and despite the existence of an effects management hierarchy that includes offsetting, needs to be considered closely by the Panel in light of the overall intention of the NPS. The existence of offsetting and compensation at the bottom of the hierarchy does not necessarily mean a project with significant adverse effects on an existing wetland should proceed. Again, we note that inconsistency with an NPS is one reason that consent can be declined, and the clear intent of the NPSFM 2020 is to prevent any further loss of wetlands.
- We also draw the Panel’s attention to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESFM 2020), which take a strengthened approach to the protection of wetlands. The regulations came into force 3

September 2020, and the Panel needs to give close consideration (and seek advice if necessary) to determine what legal effect they have on the current decision. At the very least, we consider that they are a relevant matter to which consideration needs to be given and to inform any conditions, alongside the NPSFM 2020.

We thank the Panel for considering our comments.

Thank you for your comments