

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/

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

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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):	Northland Regional Council		
First name:			
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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/>

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

If you need more space, please attach additional pages. Please include your name, page numbers and Matawii Water Storage Reservoir, Kaikohe, Fast-track Application on the additional pages

The Northland Regional Council appreciates the opportunity to comment on the consent application for the Matawii Water Storage Reservoir. The Council makes the following comments:

<p>Appendix D: Matawii Reservoir hydrology study</p>	<p>It is noted that the catchment flow models were developed for the project. With any model there is a degree of uncertainty in its outputs/predictions. Consideration should be given to how to address model uncertainty, which could include a peer review of the inputs and outputs of each model.</p>
<p>Appendix F: Assessment of ecological effects</p>	<p>The Council’s comments on the adequacy of the assessment of ecological effects are included in our comments on Appendix P.</p>
<p>Appendix I: Cultural impact assessment</p>	<p>Policy D.1.2 of the Proposed Regional Plan sets out requirements of an analysis of effects on tangata whenua and their taonga, i.e. a cultural impact assessment. It provides a useful reference of what the expectations are for a cultural impact assessment.</p> <p>The report does not reference any relevant planning document recognised by an iwi authority (a hapu or iwi environmental management plan). We are aware of one management plan that applies to the area - NGĀTI RANGI HAPŪ MANAGEMENT PLAN 2016.</p>
<p>Appendix J: Project overview and economic assessment</p>	<p>We understand the following:</p> <ul style="list-style-type: none"> • The “area” for which the percentage increase in GDP and employment is defined is the four SA2s in and around Kaikohe and not a larger district size area (Page 1, paragraph 5, final sentence). • The \$24M per annum increase is not in GDP but in the value of output. The increase in GDP is estimated at \$9M per annum (Page 14, paragraph 1, first sentence).

	If we are correct, then these points need to be clarified/corrected.
Appendix K: Proposed conditions	The Council's Consents Manager has provided advice on consent conditions separately.
Appendix L: Analysis of permitted activities	<p>The rule referenced for the discharge of dust from earthworks in the Proposed Regional Plan is C.7.2.7. The numbering of the rules has changed as a result of new rules being added by consent order and is now <u>C.7.2.8</u>.</p> <p>Rule C.7.2.7 (now C.7.2.8) rule was not appealed. Therefore, in accordance with Section 86F of the Resource Management Act, it must be treated as operative (and any previous rule as inoperative). This means rule 10.1.2 from the Regional Air Quality Plan is not applicable.</p>
Appendix N: Relevant statutory provisions	<p>There is no reference to the National Policy Statement for Freshwater Management 2020 or Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESFW).</p> <p>Of particular note – Section 43B of the RMA addresses the relationship between national environmental standards and rules or resource consents. In respect to resource consents, section 43B essentially provides that resource consents prevail over the regulations if they are granted before the national environmental standard is notified in the Gazette. The NESFW was notified in the Gazette on 5 August 2020, so any consents sought <u>will not</u> prevail over the NESFW.</p>
Appendix P: Offset and compensation plan	There are some very promising aspects to the offset and compensation plan such as the use of the calculators and scale of restoration. But in several other respects the application is not aligned with the principles of offsetting. Comments are included in table below. This is a modified version of Table 5 from Appendix P.

Principle	Applicant's assessment	Comments
Limits to offsetting	<p>The ecosystem types are not so rare or unique that there is a limit to offsetting. Specifically, these ecosystems can be offset and have been in other projects.</p>	<p>The plan does not provide compelling evidence that the ecosystems and species' habitats proposed to be offset are within the limits of offsetting. This is particularly notable given the very high ecological value attributed to many of the ecological features affected.</p> <p>Does the applicant have evidence that the ecosystems affected are replaceable? The only evidence presented is in the form of a theoretical multiplier from the Environment Court for swamp maire (without reference), which does not constitute proof of its efficacy. Similarly, there is no rationale for why is</p>

		<p>the nationally critical status of some of the affected species not evidence enough of their extreme vulnerability.</p> <p>Notably, the offset assessment (Appendix P, Section 2.1.1.2) confirms the presence of long-tailed bats and the effects assessment (Appendix F) indicates that bat roosts may be found on site. In the absence of evidence that they are not, it should be assumed that bats roosts are present.</p> <p>Can such features be offset with any level of confidence and would any monitoring be undertaken to demonstrate any attempts to create roosts have been that successful? If the applicant were to employ a framework to determine if their proposal aligns with the limits to offsetting it would provide a lot more confidence that the proposal is within the “limits of offsetting”, e.g. Page 33 of the RMA offsetting guidance refers readers to the offsetability analysis of Pilgrim <i>et al</i> 2013.</p> <p>The applicant states in its assessment of environmental effects (Appendix F) that “offsetting is not appropriate for wetlands, and compensation is required” (p. 27). If the applicant considers wetlands to be beyond the limits of offsetting then they should make this clear in the Appendix P offset assessment as well, recognising that this will be reflected in the consideration of whether a no net loss offset is thus achievable.</p>
<p>No-net-loss and preferably a net gain</p>	<p>The BOAM and SEV/ECR methods are robust and transparent and appropriate to quantify no net loss and net gain. This has been described in the above and no net loss is considered to be achieved.</p>	<p>The applicant employs suitable tools to use to determine adherence with the goal of no net loss. However, the workings of the calculations are not presented anywhere in the assessment. This is not transparent (see “Transparency” principle below) and so it is not possible to check the calculations. Assuming they are correct, the goal of no net loss should be achieved not only for condition but for area as well. This looks to be achieved for terrestrial vegetation. However, wetland offsets appear to involve only enhancement of existing adjacent wetlands, not creation of new wetland habitat.</p> <p>Similarly, stream offsets propose only enhancement offsets (riparian planting and stock exclusion fencing), with no restoration offsets proposed (e.g., stream daylighting). The RMA offsetting guidance states that: <i>“Enhancement offsets on their own do not replace the extent of habitat lost but can be used in conjunction with restoration offsets and averted loss offsets to provide a package that replaces lost habitat and, where appropriate, enhances existing habitat to generate biodiversity gains”</i> (p. 39). See also the attached guidance page 5 for similar advice. The applicant’s proposal will lead to a net loss in habitat area and this is not in line with best practice offsetting.</p> <p>As noted above, it appears that the applicant considers wetlands to be beyond the limits to offsetting. In this case the goal of no net loss can only be achieved for the other elements under consideration with only compensation possible for wetlands. The applicant should clarify this, ensuring that there is surety around what is offset and what is only compensated (i.e., recognising that compensation is a separate and distinct</p>

		<p>action in the effects management hierarchy – one that does not achieve no net loss).</p> <p>Assessment of no net loss for indigenous fauna is generally pushed into future management reports. For example, rather than assess no net loss for herpetofauna, it is instead said to be managed through a “Lizard Management Plan” to follow. It should not be assumed that this will guarantee the appropriate offsetting of effects on these fauna. Offsetting for fauna is generally just as complicated as offsetting for vegetation. It would be preferable that this information be provided up front in much the same way. Where would offsets for lizards be undertaken? How would they be protected? How will they be monitored? Answers to such questions are integral to the assessment of no net loss from the outset, not merely formalities to be worked through in the implementation phase.</p> <p>Section 5.3.3.1 of the effects assessment (Appendix F) is similarly unclear on how any effects on bats would be offset. It suggests (without substantiation) that pest control, for instance, would be undertaken ‘over an appropriate area, for an appropriate length of time’. Further, planting of ‘tree species which may form roost habitat over time’ would be undertaken. How long would it take for such possible plantings to realistically form roost habitat? Such vagueness makes the success of the measures suggested uncertain.</p> <p>Section 5.3.3.3 concedes that the applicant does not have enough information on the use of the site by bats and, therefore, how effects would be offset. This does not enable adequate assessment of whether or not the proposal will achieve no net loss for this nationally critical species.</p> <p>Conspicuous data gaps such as these are suggested to be resolved as part of the overall management of effects (Section 6). It would be preferable for such critical information to be provided up front, rather than as part of managing effects post-consenting.</p>
<p>Landscape context</p>	<p>The restoration and enhancement work proposed within this OCP adopts a landscape approach to achieve the highest ecological benefits. The work is focussed in the area downstream and adjacent to the reservoir and specifically targets improved connectivity along and within gully systems. Therefore, the landscape</p>	<p>This principle appears to be satisfied. The close proximity of impact and offset sites is a big positive.</p>

	context to offsetting has been met.	
Additionality	The restoration and enhancement work proposed within this OCP is not otherwise required by another mechanism and so meets the principle of additionality.	We agree.
Permanence	The restoration and enhancement work proposed in this OCP will be protected in perpetuity and so the permanence principle is met.	It would be useful if the applicant indicated how this will actually be met. No legal mechanism of protection is suggested. The applicant suggests only monitoring offsets for 5 years (Section 3.5.3). This may not be a sufficient period of time to determine whether the actions undertaken have been successful and will prove enduring. Given the very high values of the affected biodiversity, and the risks inherent in restoring those values elsewhere, it appears the monitoring period should be extended to ensure there is sufficient proof of the efficacy of restoration/protection measures.
Ecological equivalence	As described above, the offset measures proposed have been targeted specifically to address the habitats and ecosystems being affected. Wetland impact is addressed by wetland enhancement, and so on. Therefore, the principle of “like for like” and ecological equivalence is met.	This could be assessed, but with great difficulty. The applicant provides planting lists, for example, for the impact and offset sites. But no information is provided to show how these line up. Ecological equivalence is not possible to determine with any certainty from the information provided.
Adherence to the mitigation hierarchy	Measures to avoid, remedy and mitigate have been applied in the first instance. Only those residual adverse effects which remain after the mitigation hierarchy has been applied are offset. Therefore, this principle is met.	Efforts to avoid, remedy or mitigate effects prior to offsetting are not clear. These should be delineated sequentially to make it clearer what steps will be taken to avoid effects, minimise effects that could not be avoided, and then remedy effects that could not be avoided or minimised. Construction effects should also be delineated from ongoing operational effects. The most important step in the effects management hierarchy is avoid, but it appears that avoid was may not have been contemplated in the development of the project, which is contrary to the direction of this principle.

<p>Stakeholder participation</p>	<p>The Matawii Reservoir Project has been developed under the guidance of a steering group containing a range of stakeholders.</p>	<p>We consider that this was good.</p>
<p>Transparency</p>	<p>The AEE describing the environmental effects and conceptual offsetting for the project has been circulated to a range of stakeholders.</p>	<p>We consider that this was good but, as noted above, the detailed calculations are unclear.</p>
<p>Science and traditional knowledge</p>	<p>This OCP has been developed using the two most scientifically robust offsetting tools available in New Zealand.</p>	<p>Appropriate scientific tools have been employed but it is not obvious traditional knowledge informed the assessment. If the latter has been considered elsewhere (i.e., in one of the other reports for this application) then the reader should be directed there.</p>
<p>Equity</p>	<p>The cost of the offsetting will be borne by the Te Tokerau Water Trust as the developer, while the benefits from the offsetting work will accrue to the community.</p>	<p>We consider that this is good.</p>

► Expert Consenting Panel

FAST-TRACK CONSENTING

Matawii water storage reservoir

New Zealand Government

Thank you for your comments