

20 May 2022

Expert Consenting Panel – Te Rāhui Herenga Waka Whakatāne
Environmental Protection Agency

Via email: June.Cahill@epa.govt.nz

Tēnā koutou,

RE: Response to Draft Conditions of Consent received on the Te Rāhui Herenga Waka Whakatāne Application

This letter and attachments provide the applicant's response to the draft conditions of consent provided by the panel.

We've used the panel's draft conditions as the base document, and have identified any changes using 'track changes'. Those changes are also explained in 'comment boxes' attached to the relevant conditions within the word document.

Legal Opinion:

Three aspects of our review of the conditions raised legal issues that we felt warranted further explanation to the panel, and those aspects are addressed in the attached letter from our barrister.

Management Plans

We'd also like to provide some additional explanation in relation to the management plan certification process condition 1.1.3. We've discussed this condition with the Bay of Plenty Regional Council and Whakatāne District Council, and are pleased to have reached agreement with the Councils on a preferred process.

That process provides for an overall 30 working day certification period. Where the Council(s) consider further information is needed, the conditions provide for an information request to be made within 15 days, and for certification to occur within a further 15 working days of the consent holder's response (so an overall 30 working day period excluding the time that the consent holder takes to respond). It is important to note that this is only the formal certification period. The management plans will be developed through a partnership approach in accordance with the reference group conditions, which provide that the reference group's functions include receiving, reviewing and providing feedback on the Project's management plans and other plans and reports (Condition 1.2.1.3).

Wetland Restoration Plan (WRP):

I also enclose a final version of the WRP. The text of the WRP is the same as the version provided on 19 April 2022 (in response to comments from invited parties). The only change

to is to remove the “draft” watermark. The reasons for provision of a final WRP are also explained in our barrister’s letter.

During this time, Wildlands has provided us an updated calculation in relation to a statement in the terrestrial ecology report (Appendix Q to the application). Appendix Q says that 0.943 hectares of saltmarsh wetland will be re-created, and that “more than half” of this area to be re-created would be within the Keepa Road Scenic Reserve. Wildlands has since advised that the area of Management Unit B within the Scenic Reserve is 0.768 ha or 81 per cent. The Applicant does not believe that this updated calculation has any direct bearing on the matters being considered by the Panel, but wished to provide the updated area and percentage in case the Panel wants to refer to this in its decision.

Ngā mihi nui,
Te Rahui Herenga Waka



Phil Wardale
Project Director

Attachments:

1. Draft Conditions of Consent (with applicant tracked changes and comments)
2. Legal Opinion
3. Final Wetland Restoration Plan