

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER discharge and land use resource consents for the operation and maintenance of the Wairoa wastewater treatment plant and sewer pump station overflows

BY **Wairoa District Council**
Applicant

THIRD MINUTE OF HEARINGS PANEL

1. Further to the previous two minutes issued by the Panel regarding this matter, the Panel has now received and considered the interim response filed by counsel for the applicant.
2. Having regard to the content of that response, and having reflected carefully on the issue of sequence and timing as to conferencing raised by the Regional Council, the Panel is minded to proceed with conferencing at this stage, while matters remain relatively fresh in the respective experts' mind.
3. Further, the Panel considers that their deliberations would be assisted by the outputs of that expert conferencing as to conditions of consent, notwithstanding the nature of the issues needing to be addressed through the further information on the outstanding matters of concern, as identified at paragraph 30 of the Panel's first minute.
4. The Panel has had regard to the applicant's proposals as to the appropriate experts to be included on the various condition topics, and the revised table attached to this minute (identifying the relevant experts for each condition topic) reflects that consideration. We agree that Mr Heath and Mr Lowe's participation in expert conferencing will facilitate production of properly linked conditions (applicant's response, paragraph 18).
5. Rather than there being an independent facilitator appointed, the Panel requests that the Regional Council assume responsibility for coordinating and hosting the expert conferencing sessions required, including minute taking and compilation of the outputs of expert conferencing (as directed at paragraph 38 of the Panel's first minute).
6. We would also encourage the applicant to consider meeting the reasonable travel and time related costs for the submitter experts in particular, as there is the potential for significant input to the expert conferencing being required to the benefit of the application.
7. On this basis, the Panel makes the following final directions:
 - (a) Pursuant to s 41C of the RMA, directing the applicant to provide the information on the outstanding matters of concern identified

at paragraph 30 of the Panel's minute, by 5pm Wednesday 30 June 2021.¹

- (b) That expert conferencing take place in accordance with the previous direction at paragraph 38 of the Panel's first minute involving the experts as identified in the table attached to this minute, with the outcomes of that conferencing to be filed by the applicant with the Hearings Administrator by 5.00 pm Friday 26 February 2021.
- (c) That the hearing is otherwise adjourned pending receipt of the conferencing outputs and further information required.

Dated: 4 February 2021



.....
Martin Williams
Chair Hearings Panel

¹ The Panel notes apparent or at least tacit acceptance of the initially proposed 6 month timeframe in the first minute, noting the point about Long Term Plan consultation in that applicant's response (paragraph 17), which this timeframe should accommodate.

Condition(s)	Regarding	Experts to be involved			Notes
		For the Applicant	For Council	For Submitters	
25–27	Monitoring locations and timing	Dr Mead, Mr Lake, Mr Lowe	Dr Kelly, Mr Dempsey	Mr Smith	We agree with the Applicant's argument that HBDHB, represented by Mr Ormsby, need not participate in this issue.
3, 14, 25–30	Cultural monitoring	Mr Lowe, Mr Heath, Mr Drury, Dr Mead	Ms Diack, Dr Kelly	Mr Smith, Ms Kawana	We disagree with the Applicant that Dr Mead (for the Applicant) and Dr Kelly (for Council) be excluded. Our view is that it is preferable to keep "western" and Māori epistemologies in contact, rather than separated, and that there may be practical benefits to keeping the cultural and "western" monitoring linked and co-ordinated. We agree that Mr Dempsey need not be involved. We agree with the involvement of Mr Drury (for the Applicant) and Ms Diack (for Council), both of whom will bring relevant planning expertise to the discussion.
48 and 55	Review and assessment, reporting of monitoring results	Mr Lowe, Mr Drury, Dr Mead	Ms Diack, Dr Kelly	Mr Smith, Ms Kawana	Our same reasoning regarding the exclusion of Dr Mead and Dr Kelly applies to conditions 48 and 55. Also, we inadvertently omitted Ms Kawana from discussion of conditions 48 and 55, even though she is to be involved in discussing cultural monitoring (3, 14, 25–30).
32	Environmental management plan for construction of outfall	Mr Lowe, Mr Drury, Dr Mead, Mr Teear	Ms Diack, Dr Kelly	Mr Smith	We do not agree with the contention that this can be reduced to a matter solely between the planners. Our view is that ecology expertise is necessary (Dr Mead, Dr Kelly and Mr Smith), as is expertise on the construction process (Mr Teear), to ensure the condition is effective. We accept the applicant's position that Mr Kuta may be excluded.

7 and 8	Discharge timing	Mr Lake, Mr Drury	Ms Diack	Mr Smith	We accept the replacement of Mr Heath (for the Applicant) by Mr Lake (for the Applicant).
33	Diffuser relocation effects	Mr Lowe, Mr Drury, Dr Mead, Mr Teear	Ms Diack, Dr Kelly	Mr Smith	The Applicant agrees to amend the condition to limit effects that may arise from relocation of the diffuser as needed by “sliding” along the pipeline to the “envelope of effects” that may arise during (initial) installation of the pipeline and diffuser, and therefore no conferencing is required. We acknowledge the Applicant’s willingness to amend condition 33 but, since this procedure has the potential to produce adverse ecological effects, we still require scrutiny by experts. The experts who will discuss condition 32 are well suited to discussing this condition, for the same reasons, with the additional benefit that the two conditions could be addressed at the same meeting.
39	Performance standards	Mr Lowe, Mr Heath	Mr Dempsey		We accept the addition of Mr Lowe for the Applicant.
14, 38 and 51	Pathogen standards	Mr Lake, Mr Heath	Mr Dempsey		We accept the addition of Mr Lake for the Applicant.
New	Load calculations	Mr Lake, Dr Mead	Mr Dempsey, Dr Kelly		We accept the replacement of Mr Heath (for the Applicant) by Mr Lake (for the Applicant). We acknowledge that Dr Kelly (for Council) may have similar views as Dr Mead (for the Applicant) on this matter, but we also recognise that Mr Dempsey’s views may differ. To facilitate robust consideration of the condition, we therefore require Mr Dempsey’s presence.
38	UV operation	Mr Lake, Mr Heath	Mr Dempsey		We accept the addition of Mr Lake for the Applicant.

23	Solid debris	Mr Lake, Dr Mead	Mr Dempsey, Dr Kelly		We acknowledge the Applicant's argument. However, we are reluctant to dismiss a legitimate concern raised by a submitter without discussion by experts, especially when such discussion can be readily facilitated, as is the case here. The experts who will discuss the prospects for a new condition governing load calculations are well suited to discussing this condition (Mr Lake for the Applicant; Dr Mead and Dr Kelly, who will recognise driftwood; and Mr Dempsey on operation of the cutter pumps).
New	Progressive review of options	Mr Heath, Mr Lowe, Mr Drury	Mr Dempsey, Ms Diack	Mr Smith	We accept the addition of Mr Dempsey and Mr Smith, both of whom will bring more diverse but still relevant expertise to the table