

IN THE MATTER

of the Resource Management Act 1991
Independent Hearing Commissioners
Date of Hearing Commencement:
30 November 2020.

AND**IN THE MATTER**

Hawke's Bay Regional Council

- **Wairoa District Council**

Wastewater APP – 123774

**STATEMENT OF EVIDENCE OF INA KUMEROA KARA-FRANCE
TANGATA WHENUA AND ON BEHALF OF HOPE O TE WAIROA (RWT)
LTD RANGI-HOUA MĀORI LAND OWNERS WAIROA
Dated: 20 November 2020**

1. Introduction

- 1.1 My name is Ina Kumeroa Kara-France I represent myself as Tangata Whenua and HOPE O TE WAIROA (RWT) LTD RANGI-HOUA MĀORI LAND OWNERS OF Suburban sections 830 and 831 Kopu Road, Wairoa, as their Project Manager.
- 1.2 I whakapapa to Wairoa and had been a resident from April 2017 to May 2020.
- 1.3 I have graduated with a Masters of Business Administration in International Business (MERIT) from the Auckland Institute of Studies St Helens - Te Whare Wānanga Ki Hato Herena, Auckland, and a Post Graduate Diploma in Business Māori Development from The University of Auckland. I completed the Environment Independent Commissioner Certification for the Resource Management Act 1991 Decision Makers in 2015. I completed the New Zealand Institute of Directors Governance Training in 2016. I am currently a P.h.D Doctoral Research Student in Environmental Studies at Te Whare Wānanga O Awanuiārangi: Thesis "Kaitiakitanga" the Māori Experience within the Resource Management Act 1991, in Aotearoa New Zealand.

1.4 I am a Consultant and the National Campaign Representative Board Member for Generation Zero a nonpartisan Youth-led Climate Organisation that champions solutions towards a thriving Carbon-Neutral Aotearoa New Zealand. I have been involved in Māori Development for 30 years in various roles across governance, management and operations and various projects throughout Aotearoa New Zealand. Since 2015, my involvement shifted into the Hapū Treaty Settlement and Environment space, which included the Independent Commissioner for the Resource Management Act 1991 certification, the New Zealand Institute of Directors training and a project for the Takitimu District Māori Council. I specialise in the Resource Management Act 1991 Part 2. Considerations to Māori, Iwi Environmental Management Planning, Cultural Impact Assessments, Feasibility Studies, Business Case Research, Project Management and Economic Development.

1.5 I was contracted by HOPE O TE WAIROA (RWT) LTD RANGI-HOUA MĀORI LAND OWNERS OF Suburban sections 830 and 831 Kopu Road, Wairoa¹, as their Project Manager in June 2019. I worked with Mrs Esther Foster (the Director) and developed a Proposal and Feasibility Study that would research the potential possibilities of developing their land into a commercial venture which would provide employment for the shareholders and the Wairoa Community within the Cultural Tourism and Outdoor Pursuits Industries. Such as; Waka Ama, Mahinga kai and Cultural and Environmental Education. This venture intention included Accommodation, Café, Art Gallery and Retail within a Marae setting. This intention was supported in writing by the Mayor of Wairoa and the Wairoa District Council².

However, unfortunately the research and venture is on hold due to the Pre-Hearing and Hearing circumstance as the Treated and Untreated Wastewater Discharge adversely impacts on the venture as it is a barrier to entry, to participate fully' in the Cultural Tourism and Outdoor Pursuits Industries³.

¹ Refer to Figure 1,2 in Appendix 2;

² Refer to the letter from the Mayor of Wairoa in Appendix 4;

³ The Proposal and Feasibility Study is commercially confidential and available to the Hearing Panel only for the purpose of evidence in support of the report on request and must be read and returned directly to the official owner Mrs Esther Foster.

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2. Scope of Evidence

2.1 My evidence includes the following matters:

- a) The Submission;
- b) Relevant Statutory Materials and Breaches;
- c) The Kaupapa Māori (Māori Epistemological) Framework;
- d) Mauri;
- e) Māori Cultural Values;
- f) Cultural
- g) Ecology;
- h) Recreation;
- i) Fish;
- j) Wildlife;
- k) Landscape and Scenic;
- l) Water Quality;
- m) Cultural Monitoring;
- n) Conclusions;
- o) Appendices.

3. Executive Summary

3.1 The statement of evidence seeks a decision from the Independent Hearing Commissioners to decline the Wairoa District Council Resource Consent application based on the enclosed evidence.

3.2 There are five fundamental recommendations as follows:

- a) No Discharge of Treated and Untreated Wastewater into Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River);
- b) International Best Practice Wastewater Management Land Based Discharge;
- c) Financial Compensation to the Wairoa Community for the impairment and distress caused for over 20 years;
- d) Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River), to be drinkable and swimmable quality;
- e) The Mauri is restored.

3.3 Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is of significant Māori Cultural Value to the Iwi and Hapū of Te Rohe o Te Wairoa.⁴

3.4 Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is a scared “Taonga” through Whakapapa and it is this “Taonga” which is the same “Taonga” described in the Treaty of Waitangi in which the Crown promised to protect as in the following:

- a) Article Two: confirmed and guaranteed Māori full and undisturbed possession of the land and estates, forests and fisheries, and other Taonga (thereby protecting Rangatiratanga).

(This is reflected in the Resource Management Act 1991 obligation to recognise and provides for the relationship of Māori and their culture and traditions with their ancestral lands and other taonga as a matter of National Importance (Section 6 (e)).

3.5 An assumption that Rangī-Houa Māori Land Owners of Suburban sections 830 and 831 Kopu Road, Wairoa had relinquished their Kaitiakitanga and Rangatiratanga of their Taonga is flawed. The owners did not relinquish their Whakapapa rights, or their Treaty of Waitangi Rights. Yet the Wairoa District Council for over 20 years has continued to ignore these rights as this has been evident through their failure to consult or directly notify⁵ Mrs Esther Foster (on behalf of owners), in person, and in the Condition(s) discussions of the resource consent application⁶.

⁴ Refer: Appendix 3. Photographic Evidence;

⁵ HBRC.s42A Officer Report;p.71,s.10:Consultation and Notification Assessment. .s.s.209:Direct Notification Parties List.2020;

⁶ Wairoa WWTP Conditions – 4 September 2020 – Version 20: Condition 2. Maori Engagement.

- 3.6 The Rangi-Houa Māori Land Owners of Suburban sections 830 and 831 Kopu Road, Wairoa are to be acknowledged as an authority for Rangi-Houa and its freshwater and coastal marine space in partnership and collaboration with all other authority non-Māori and Māori, entering into their traditional takiwā (customary area). As promised by the Crown in the Treaty of Waitangi as in the following:
- a) Article Three: gives Māori all the rights and privileges of British citizens. Practically, these rights can be expressed by Māori by their being involved in Resource Management Act 1991 processes – as members of the public –in addition to their interests as Tangata Whenua, the Treaty Partner to the Crown.
- 3.7 International Best Practice in sustainable wastewater management is clearly ignored.⁷
- 3.8 The impact on Māori Cultural Values and the ongoing Adverse Effects on the environment far outweigh the financial constraints as highlighted in the Wairoa District Council resource consent application. A 35 year consent application to continue an outdated wastewater management is flawed. The wānanga and karakia to restore cultural connections as highlighted in the draft conditions, “WILL NEVER BE SUCCESSFUL AND FAIL, Unless the treated and untreated wastewater discharges cease to continue”.⁸
- 3.9 In final, the Mauri is the force that ensures...That all species it accommodates will have continual life. The Mauri cannot be intercepted or desecrated. The Mauri is defenceless against components that are not part of the natural environment. When the Mauri is harmed, so too is the well-being of the people.⁹
- 3.9.1 The treated and untreated wastewater discharge is culturally offensive and culturally destructive and it has an adverse impact on Mauri. In Wairoa, the adverse impact on Mauri is evident and can be seen in the high levels of poverty, substance abuse, gang activity, violence, and Whanau relationship breakdowns.

⁷ The Hawke’s Bay Regional Council Assessment of Resource Consent Application S.42A Officers report Dated: 6 November 2020:s.s.150.Removal of Wastewater. The applicant has included options of sending the wastewater out of the District either by shipping bulk volumes of wastewater that has been treated to a potable quality (drinking water) to countries that have “scarcely drinking water sources”, which the applicant describes as “assist arid nations, and gain some revenue for the applicant”⁴⁹, however this option is currently unavailable due to the Wairoa not having port facilities nor the desire to treat the water to a drinkable standard. The applicant has not confirmed what the worldwide demand is for such a resource however this seems to be a moot point given the applicant’s inability to deliver such product. 151. The other option to remove the wastewater from the Wairoa District was to transport it to space via the Rocket Lab. This seems, as does the shipping, ‘fanciful’ in nature and possibly the applicant could have discounted these options rather than including them in their application;

⁸ Huakina Development Trust - Waikato Iwi Management Plan Manuka: The Judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater case: p.65;

⁹ Huakina Development Trust - Waikato Iwi Management Plan Manuka: The Judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater case: p.65.

4. Statement of Evidence Introduction

- 4.1 Firstly, the evidence focus is on the significant Māori cultural value of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) to the Iwi and Hapū of Te Rohe o Te Wairoa in particular to Rangi-Houa. Secondly, the adverse effects on the environment will be highlighted and presented with examples including evidence concerning Cultural Monitoring.
- 4.2 Due to the size and format, there is no attached appendices of the Wairoa WWTP Conditions – 4 September 2020 – Version 21 Draft, or the Hawke’s Bay Regional Council Assessment of Resource Consent Application S.42A Officers report Dated: 6 November 2020.
- 4.3 The author viewed seventeen documents before writing the statement of evidence and these are listed as follows:
- Hawke’s Bay Regional Council Cultural Values Report 2018;
 - Wairoa District Council Document titled: The History of Ngati Kahungunu of Wairoa;
 - Wairoa District Council Rangi-Houa Pilot Hill Heritage Reserve Management Plan;
 - Mrs Esther Foster Statement of Evidence 2020;
 - Resource Management Act 1991 Part 2. Considerations to Māori;
 - National Policy Statements for Freshwater, Coastal and Marine;
 - Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018;
 - Heritage New Zealand Pouhere Taonga Act 2014;
 - Stage 1. The Waitangi Tribunal National Freshwater and Geothermal Resources Claims Report 2012;
 - Stage 2. The Waitangi Tribunal National Freshwater and Geothermal Resources Claims Report 2019;
 - The Water Service Regulator Act 2020 and Taumata Arowai – the Water Services Regulator;
 - The Treaty of Waitangi;
 - Wairoa WWTP Conditions – 4 September 2020 – Version 21 Draft;
 - The Hawke’s Bay Regional Council Assessment of Resource Consent Application S.42A Officers report Dated: 6 November 2020;
 - Huakina Development Trust v. Waikato Water Board 1987(2), 188;
 - Waikato Iwi Management Plan Manuka: Huakina Development Trust;
 - Tim Haggitt and Oliver Wade (2016): Hawke’s Bay Marine Information: Review and Research Strategy – A Report prepared for Hawke’s Bay Regional Council.

5. The Submission

- Wairoa District Council Wastewater APP – 123774

5.1. The detailed submission is attached in the Appendix 1. It is understood that there has been an attempt to address some of the submitting issues, and this is acknowledged in particular in regards to the Wairoa WWTP Conditions – 4 September 2020 – Version 21 Draft concerning a) Maori Engagement; b) Cultural Monitoring; and c) Restoring Mauri.

5.2 We oppose the Resource Consent application as follows:

5.3 To discharge treated wastewater from the Wairoa Wastewater Treatment Plant to the Wairoa River within the coastal marine via an outfall structure (pipeline) (Rule 160 – Regional Coastal Environmental Plan (RCEP));

5.4 The Potential re-establishment of the main outfall structure within the coastal marine (relocation of main outfall structure) (Rule 177 – RCEP);

5.5 The Occupation of riverbed for the main outfall structure within the Coastal Marine Area (Rule 178 – RCEP);

5.6 To discharge untreated wastewater from the Alexandra Park and North Clyde pump stations via overflow outlet pipes into the Wairoa River (Rule 52 – RRMP);

5.7 To discharge untreated wastewater from the Kopu Road pump station via overflow outlet pipe into the Wairoa River (Rule 9 – RCEP); To discharge treated wastewater from the Wairoa WWTP via overflow pipe into the Wairoa River (Rule 160 – RCEP).

5.8 There are five fundamental recommendations as follows:

- a) No Discharge of Treated and Untreated Wastewater into Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River);
- b) International Best Practice Wastewater Management Land Based Discharge;
- c) Financial Compensation to the Wairoa Community for the impairment and distress caused for over 20 years;
- d) Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River), to be drinkable and swimmable quality;
- e) The Mauri is restored.

6. Relevant Statutory Materials and Breaches

6.1 Treaty of Waitangi

The Waitangi Tribunal Stage 2: National Freshwater and Geothermal Resources Claims Report Dated: 28 August 2019 stated in that the substance of the Ngawha Tribunal conclusions¹⁰ – the unacceptable weakness of the Treaty clause and the Crown's delegation of Treaty responsibilities – were evident to many other Tribunal panels. These include the Te Arawa Geothermal Tribunal¹¹, the Te Whanganui-a-Orotu Tribunal¹², the Ika Whenua Rivers Tribunal¹³, the Whanganui River Tribunal¹⁴, the Central North Island Tribunal¹⁵, Te Tau Ihu Tribunal¹⁶, the Wairarapa Tribunal¹⁷, and the Tauranga Moana Tribunal.¹⁸

The Tribunal noted in the following statements of the Whanganui River Report:

- a) We disagree with Crown submissions that section 8 of the Resource Management Act provides for recognition and implementation of the Crown's Treaty duties. It does not require those with responsibilities under the Act to give effect to Treaty principles but only to take them into account. This is less than the obligation to apply them. When ranked with the competing interests of others, this means that guaranteed Treaty rights may be diminished in the balancing exercise that the Act requires...
- b) In this case, functions under the Resource Management Act are generally exercised not by the Crown but by bodies that the Crown has established. The point has been well made, however, in earlier Tribunal reports, from 1983, that the Crown's duty of active protection of Māori property interests is not avoided by legislative or other delegation. If the Crown chooses to so delegate, **it must do so in terms that ensure that its Treaty duty of protection is fulfilled.**¹⁹

¹⁰ Waitangi Tribunal, The Ngawha Geothermal Resource Report 1993 (Wellington: Brooker and Friend Ltd, 1993, pp145, 146-147);

¹¹ Waitangi Tribunal, Preliminary Report on the Te Arawa Representative Geothermal Claims (Wellington: GP Publications, 1993), p34;

¹² Waitangi Tribunal Te Whanganui a Orotu 1995 (Wellington: GP Publications, 1997), and ed, pp207-208;

¹³ Waitangi Tribunal Te Ika Whenua Rivers Report, pp141-142;

¹⁴ Waitangi Tribunal The Whanganui River Report, pp330-332;

¹⁵ Waitangi Tribunal He Maunga Rongo vol 4, pp1457-1458,1588-1589;

¹⁶ Waitangi Tribunal Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims, 3 vols (Wellington: Legislation Direct, 2008), vol 3, p1225;

¹⁷ Waitangi Tribunal The Wairarapa ki Tararua Report, 3 vols (Wellington: Legislation Direct, 2010), vol 3, p1062;

¹⁸ Waitangi Tribunal Tauranga Moana, 1886-2006: Report on the Post-Raupatu Claims, vol 2, p591;

¹⁹ Waitangi Tribunal, Whanganui River Report, pp300-302.

6.2 The National Policy Statement for Freshwater Management

- 6.2.1 There is a legal breach if, the National Policy Statement for Freshwater Management regarding the Water Quality in Freshwater Bodies that have been degraded as a result of human contaminants.

6.3 Resource Management Act 1991 Part 2 Considerations to Māori

- 6.3.1 Section 5: of the RMA states that the purpose of the Act is: ...to promote the sustainable management of natural and physical resources; Sustainable management is defined in section 5(2) as follows:

In this Act, sustainable management means managing the use, development and protection of natural and physical resources in such a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while -

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) Avoiding, remedying, or mitigating and adverse effects of activities on the environment.

- 6.3.2 Section 6: In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance;

- (e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;

- 6.3.3 Section 7: In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall have particular regard to -

- (a) Kaitiakitanga: – the ethic of stewardship in regards to ensure sustainability (of the whanau, hapū or Iwi) in physical, spiritual, economic and political terms. It is the responsibility of those managing resources to ensure survival and political stability in terms of retaining authority over an area. Including in Kaitiakitanga are concepts concerning authority and the use of resources (Rangatiratanga, Mana Whenua), spiritual beliefs ascertaining to sacredness, prohibition, energy and life-force (tapu, rahui, hihiri, and mauri) and social protocols associated with respect, reciprocity, and obligation (manaki, tuku and utu).

6.3.4 Section 8 of the RMA, Principles of the Treaty of Waitangi', states:

In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

- (a) Article Two: confirmed and guaranteed Māori full and undisturbed possession of the land and estates, forests and fisheries, and other Taonga (thereby protecting Rangatiratanga).

(This is reflected in the RMA obligation to recognise and provides for the relationship of Māori and their culture and traditions with their ancestral lands and other taonga as a matter of National Importance (Section 6 (e));

- (b) Article Three: gives Māori all the rights and privileges of British citizens. Practically, these rights can be expressed by Māori by their being involved in RMA processes – as members of the public –in addition to their interests as Tangata Whenua, the Treaty Partner to the Crown.

7. The Kaupapa Māori (Māori Epistemological) Framework

- 7.1 The Stage 1. Waitangi Tribunal Freshwater and Geothermal Report 2012 acknowledged that the Kaupapa Māori (Māori Epistemological) Framework showed the interrelationships between whenua (the land and all things that cover and nurture Papatūānuku), Te Miina o Papatūānuku, Manaakitanga, Kaitiakitanga, and Tangata Whenua. The Māori relationship with their world is, in a cosmological sense, with the environment as made up of living beings to whom' they are related, and patterned with tapu and rituals, which impinge on every aspect of their life. The connections are sourced in Whakapapa and they impose reciprocal obligations embodied in the words Manaakitanga and Kaitiakitanga.²⁰

²⁰ Wai2358W. Waitangi Tribunal Freshwater and Geothermal Report: p.34,35,36:2012.

8. Mauri

- 8.1 Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is Taonga to the Iwi and Hapū of Te Rohe o Te Wairoa. The Mauri of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is another Taonga.
- a) In the judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater Case,²¹ stated that:
- i) The Mauri is the force that ensures...That all species it accommodates will have continual life. The Mauri cannot be intercepted or desecrated. The Mauri is defenceless against components that are not part of the natural environment. When the Mauri is harmed, so too is the well-being of the people.²²
- b) The well-being of Taonga and the well-being of its people are indivisible. By their very birth the kaitiaki are charged with the responsibility of protecting and guarding the Mauri of Taonga. The natural resources are whanaunga. In return they protect, and provide, for the people. And so it has always been. In this is the essence of Kaitiakitanga.²³
- 8.2 In Wairoa the adverse impact on Mauri is evident and can be seen in the high levels of poverty, substance abuse, gang activity, violence, and Whanau relationship breakdowns²⁴.
- 8.3 Therefore, if the evidence presented is stating the above, the wānanga and karakia to restore cultural connections as highlighted in the draft conditions “WILL NEVER BE SUCCESSFUL AND FAIL. Unless the treated and untreated wastewater discharges cease to continue.”²⁵

²¹ Huakina Development Trust v. Waikato Water Board 1987 (2), 188;

²² Huakina Development Trust - Waikato Iwi Management Plan Manuka: The Judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater case: p.65;

²³ Huakina Development Trust - Waikato Iwi Management Plan Manuka: The Judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater case: p.65;

²⁴ PhD Doctoral Research Thesis: “Kaitiakitanga” The Maori Experience within the Resource Management Act 1991 in Aotearoa New Zealand Chapter draft Impact on Mauri: Ina Kumeroa Kara-France 2020;

²⁵ Huakina Development Trust - Waikato Iwi Management Plan Manuka: The Judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater case: p.65.

9. Māori Cultural Values

9.1 In the Hawke's Bay Regional Council Cultural Values Report 2018 a report that assisted the Regional Planning Committee members to determine whether any of the values of the Wairoa River are outstanding for the purposes of the National Policy Statement for Freshwater Management (NPSFM),²⁶ presented in their report the key values as:

- Cultural
- Recreation
- Ecology (Wildlife, fisheries)
- And,
- Landscape (Geological Features)

It is this framework of the above key values that the author presents the evidence in this section.

9.2 Cultural

9.2.1 The Hawke's Bay Regional Council Cultural Values Report 2018 acknowledged that:

- a) Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is of significant cultural value to the Iwi and Hapū of Te Rohe o Te Wairoa.
- b) The report described that the Wairoa river is regarded as TAPU. It is bound by rituals and traditions, which stem from Gods and belongs to their ancestors.
- c) The water of the Wairoa River was used for purification, ancient chants and prayers.
- d) The river was also a major avenue for trading and commerce and an important mahinga kai.
- e) Several important pā sites are located along and at the mouth of the river including Rangihoua/Pilot Hill, this is sacred to tāngata whenua and is a registered archaeological site.
- f) The report further acknowledged that Te Reinga Falls was the starting point of the Wairoa river and is associated with Hinekorako and Ruamano, which were taniwha carried to Aotearoa on the Tākitimu waka and the river mouth is associated with two taniwha engaged in an ongoing struggle between Tapuwae and Te Maaha.²⁷

²⁶ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

²⁷ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111.

9.2.2 The statement of evidence of Mrs Esther Foster identified and described that:

- a) A number of whanau were baptised on 26 January 1913 in the Wairoa River at 'The Heads' (Rangi-Houa) by G A Chadwick and confirmed respectively by Heremia himself. Heremia's aging mother in law was then living with her daughter Martha and himself. Being 84 years young, it was fortuitous she did not have to journey far that day for her own baptism.
- b) Mrs Foster further describes that "It is common knowledge amongst us whanau, 'The Heads' (Rangi-Houa) like 'Hine-te-ra o Putahi' is deemed to be consecrated land. We understand the land to be blessed, to be preserved to provide health and well being to others.
- c) The River provides whanau water to bathe with, water to drink at the water edge, having flowed through the many running streams and creeks before entering the river, the river provided food for whanau, such as tuna, whitebait, kōura, flounders, kahawai and much more.
- d) The River also provided entertainment but essentially she (the Wairoa river) was sacred, and pure and we all paid respect to her, as she provided same to us.
- e) We as children knew which areas of the River and her tributaries to gather food, swim or bathe. We never ever soiled the river in any way. Those who were menstruating were not to enter the water - period.

9.2.3 In the Wairoa District Council document of the history of Ngati Kahunganu of Wairoa it described an historical account significant to the history of the Iwi and Hapū o Te Rohe o Te Wairoa highlighting "Tapu" and "the breach of Tapu on the Wairoa River" as follows:

- a) The most recognised religious movement made by the Māori in Wairoa was the Kotahitanga movement. It began in 1894 when God spoke to an elder of the Putahi Pa at Frasertown, Te Matenga Tamiti. He was told that time of the temple had come and he was to construct it.
- b) The temple was to be built from twelve posts that were forty feet in length and four feet square. The pillars were to be named after the twelve children of Jacob. The task was to be surrounded by tapu. Twelve totora trees were chosen from the grove at Mangatawhiti near Waikaremoana. The trees were brought across the land to the Manga-aruhe stream which joins the Wairoa River. The logs were then floated down the river and across the bar to Korito beach, which had been chosen as the temple site.
- c) A breach of tapu occurred when the logs passed by Wairoa. Two men tried to claim one of the logs by boat. As they touched the log their boat capsized and they ended up sitting on it. One swam to safety but the other was drowned when the log rolled. Eleven of the logs landed at korito, but the one which had been sat on ended up at Waikokopu and a boat had to be chartered to bring it back.

- d) All the logs were together by 1904, but because of the breach of tapu, Te Matenga Tamiti told his faithful followers that they wouldn't be the builders of the temple. Matenga continued to lead his flock for ten years. He died in 1914 and was buried at Korito near the logs. They can still be seen today, lying side by side at the end of Iwitea Road, five minutes out of Wairoa.²⁸

9.2.4 In both the Wairoa District Council Ngati Kahungunu of Wairoa document and the Hawke's Bay Regional Council Cultural Values 2018 Report highlighted and acknowledged a series of events that took place throughout the region and that the Tākitimu waka came up the Wairoa River and landed at Makeakea Stream as in this example:²⁹

- a) ...the Takitimu canoe crossed the Wairoa bar it landed at Makeakea stream where one of the skids accidentally fell into the water and became a Taniwha. Part of the skid was taken to a chief named Kopu-para-para who carved it into a Tiki.
- b) The first building was erected by Pitihera Kopu at his pa, Te Hatepe. The tiki carved by Kopu-para-para was placed above the Maihi. In 1867, after Pitihera Kopu died, an invitation was sent to Te Kooti Rikirangi to come to Wairoa. During 1888 the Takitimu Meeting House was dismantled and rebuilt at Wai-herere Pa.³⁰

9.2.5 Further evidence is found in an article published in the Star Newspaper on Thursday the 8th of May 2008 titled "Pilot Hill looks on patiently as ages pass" presented by the Wairoa Museum and research associate Nigel How discovered the origin of the name and two other names the iconic hill has had over its lifetime:

- a) Rangi-Houa account as he witnessed the arrival of the sacred vessel Takitimu, which had carried a cargo of gods and holy knowledge to our shores. The high priest Ruawharo scattered sands from Hawaiki at my feet, at a place from then on known as Tahuna-mai-Hawaiki to the humans.
- b) The bones of royal and aristocratic offspring of the great one Maui were brought to this place to rest for eternity. These humans gave my name "Rangi-Houa" and settled on my back. My cloak was cut and burnt, my flesh of soil dug into to create defensive barriers against human attack. For many years I cradled these children of Maui these creations of Tane. I murmured with amusement as the feet of young ones tickled my rough skin. I sighted at the sounds of lovers making music in the night. I mourned when blood was spilled upon me in times of war. These children of Maui became my charge, and I became a life-source for them all. They learned to live in tune with my kin and I, and adapted to sustain themselves as well as us.

²⁸ Wairoa District Council – <https://www.visitwairoa.co.nz/assets/see-and-Do-Doc/thehistoryoftheNgatiKahungunuofwairoa> ;

²⁹ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³⁰ Wairoa District Council – <https://www.visitwairoa.co.nz/assets/see-and-Do-Doc/thehistoryoftheNgatiKahungunuofwairoa>.

- c) Rangī-Houa further described his account of the coming of “fair-skinned humans” as follows: “It was not that long ago, that another branch of Tanes descendants came in great ships, not unlike giant birds floating on the sea. These fair-skinned humans came with a hunger. At first this was appeased by the hunting of the great tahora (Whales), to which those whom I cradled began to partake in as well.”³¹

9.3 Ecology

9.3.1 The following evidence identifies and highlights the adverse effects on the environment of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River), its water, its river bed and its ecosystems.

9.3.2 In the Hawke’s Bay Regional Council Cultural Values Report 2018, it acknowledged that the:

- a) Wairoa River Estuary is part of a much larger wetland complex which includes Ngamotu, Ohuia, Waihoratuna, Wairau, Te Paeroa, Patangata and Whakaki Lagoons. Collectively these wetlands constitute the largest such system on the east coast of the North Island.³² The report also identified that the Wairoa River is the discharge area for a number of non-point and point source discharges which severely impacts on its ecological values.
- b) The town’s stormwater and wastewater flow directly into the river at certain times, and there are both active and closed landfills near the river mouth. Elevated bacteria levels are generally observed after heavy and prolonged rainfall.³³

9.3.3 In a Peer Review of Estuary and Ocean receiving Environment Report written by DR Shaw Mead, the Managing Director of E Coast Marine Consulting and Research Dated 2 April 2018 to Mr Phil Lake of Lowe Environmental Impact regarding the Stage 1: Peer Review of Estuary and ocean receiving Environment Report A3IIb Resource Consent Renewal process. Dr Mead quoted the EAM (2011) Report stating that:

- a) Given the decreased species diversity there is some evidence that overall conditions in the river estuary are deteriorating over time. Additionally, the Wairoa District Council discharge as also a measurable contributing stressor to infaunal communities particularly at the downstream impact site A, and this is in evidence as, increased levels of variability among the summary indices compared to the other monitoring sites.³⁴

³¹ Wairoa District Council Rangī-Houa Pilot Hill Heritage Landscape Management Plan 9 March 2011;

³² Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³³ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³⁴ HBRC – WDC Resource Consent Documentation sent by email on the 15 October 2019.

- 9.3.4 In regards to the Water Quality of the Ecosystem Health the Hawke’s Bay Regional Council regularly monitors the water quality of the Wairoa River at Rail Bridge, which is classed as a lowland rural site.³⁵ However, the nitrate and ammonia attribute bands provide an indication of the chronic toxicity risk to aquatic animals.³⁶

9.4 Recreation

- 9.4.1 The following evidence identifies and highlights the Recreation Values and the significant impact on recreational swimming of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River). In the Hawke’s Bay Regional Council Cultural Values Report 2018, it presented and acknowledged the following:

- a) The lower reaches of the Wairoa River are popular for a range of recreational activities such as water skiing, waka ama, rowing, sailing and swimming. This area is also highly valued for white baiting between August and November.³⁷
- b) The water quality in this area currently has high levels of bacteria and is unsafe for swimming, this has a significant impact on the recreational values of this area.³⁸
- c) In 2004, The Wairoa River was recognised as a Potential Water Body of National Importance for recreation by the Ministry for the Environment.³⁹
- d) Both rainbow and brown trout are present in the Wairoa River, which average around 1.5 kg and are present in reasonable numbers. The NZ fishing website advises anglers that the Wairoa River is best known for its tributaries which provide world class fishing.⁴⁰
- e) The majority of angling occurs at the beginning of Wairoa River below Te Reinga Falls. The river is open to fishing all year round and at times trout larger than 1.5 kg are caught here.⁴¹
- f) The NZ fishing website describes the Wairoa River as a river which is silt laden and not particularly attractive, further advising that its banks are often lined with willows making access difficult in places.⁴²
- g) In 2012, the Wairoa River was identified as locally significant in the Hawke’s Bay RiVAS assessments⁴³ for salmonid angling.⁴⁴

³⁵ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³⁶ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³⁷ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³⁸ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

³⁹ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴⁰ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴¹ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴² Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111.

- h) The Wairoa River provides a 20 km stretch of easy jet boating water up to Marumaru and slightly beyond depending on the water levels. During low flows, the ledges of rock across the river above Marumaru impede navigation.⁴⁵
- i) The Wairoa River is used for rafting and kayaking, with the most popular trip being from Te Reinga Falls down to Marumaru. Paddling can occur past Marumaru however, the river is flat and sluggish past this point.⁴⁶
- j) In 1981, The Recreational River Survey assigned the recreational and scenic values of the Wairoa River an 'intermediate1' and 'moderate2' rating, respectively.⁴⁷
- k) The Wairoa River does not feature in the RiVAS assessment undertaken in Hawke's Bay for whitewater kayaking. However, it is noted that the flat-water of the river is sometimes used by whitewater kayakers for slalom, park'n'play and training.⁴⁸

9.5 Fish

9.5.1 The following evidence identifies and highlights the Fish in Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River). In the Hawke's Bay Regional Council Cultural Values Report 2018 it acknowledged the following:

- a) The Wairoa River Estuary, and its associated wetland areas, provide an important habitat for shortfinned eel and whitebait spawning. The area is also an important access point into inland waters for a number of native freshwater species including longfinned eel, smelt, koaro, redfin bull, bluegill bully, torrentfish, lamprey and cran's bully.⁴⁹
- b) The Hawke's Bay Regional Coastal Environment Plan identifies the Wairoa River Estuary, and its associated coastal wetlands, as having regionally important fisheries values.⁵⁰
- c) In 2012, the Wairoa River was identified as nationally significant in the Hawke's Bay RiVAS assessments for native fish.⁵¹

9.5.2 Iwi and Hapū of Te Rohe o Te Wairoa "Mahinga Kai" - White Bait and fishing: Please refer to the photographic evidence attached in the Appendix 3.

⁴³ RiVAS Assessment – River Values Assessment System (RiVAS) Envirolink Decision Support Systems;

⁴⁴ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴⁵ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴⁶ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴⁷ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴⁸ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁴⁹ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵⁰ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵¹ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111.

9.6 Wildlife

9.6.1 The following evidence identifies and highlights the Wildlife of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River). In the Hawke's Bay Regional Council Cultural Values Report 2018 it acknowledged the following:

- a) A large section of the Wairoa River Estuary is located within the Whakamahi Wildlife Management Reserve which is around 144 hectares in size and managed by the Department of Conservation. This area supports both introduced and native waterbirds and has breeding populations of Canadian Goose and a small number of South Island pied oystercatcher.⁵²
- b) The Whakamahi Wildlife Management Reserve includes the lagoons, sandspit and mudflats connected with the Wairoa River mouth and the Whakamahi Lagoon. The Whakamahi Lagoon, and its associated sandspit and tidal flats are connected to the Wairoa River. The bar is highly mobile and its outlet location changes frequently.⁵³
- c) Hawke's Bay Regional Council have conducted ecological surveys in this area since 2003. The survey results indicate that human disturbance along the spit bar is a problem for ground nesting birds causing a low diversity of bird species.⁵⁴
- d) In 2012, the Wairoa River was identified as regionally significant in the Hawke's Bay RiVAS assessments for native birdlife.⁵⁵
- e) Matangirau – Te Rohe o Te Wairoa Reserves Board Whakamahi Wildlife Management Reserve Refer to the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018.

⁵² Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵³ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵⁴ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵⁵ Hawke's Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111.

9.7 Landscape/scenic

9.7.1 The following evidence identifies and highlights the Landscape and Scenic Values of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River). In the Hawke’s Bay Regional Council Cultural Values Report 2018 it presented and acknowledged the following:

- a) The Wairoa River begins at the Te Reinga Falls. A short distance after the falls, the river begins to flatten out and flows predominately through farmland, then urban areas in its lower parts. There are high limestone bluffs standing above the hills which provide a rugged backdrop in its initial reaches.⁵⁶
- b) Te Reinga Falls consist of four waterfalls which tumble down in stages and into a narrow channel that creates a large amount of mist on the water.⁵⁷
- c) In 1979, the scenic values of the Wairoa River were assessed in “64 New Zealand Rivers” which provided an in-depth scenic evaluation of sixty four of New Zealand’s major Rivers. As part of this study, the section of Wairoa River between Te Reinga Falls and Marumaru was given an ‘interesting’ 3 scenic rating, with the section of river between Marumaru and the sea given an ‘ordinary’ scenic rating.⁵⁸
- d) In 1981, The New Zealand Recreational River Survey assigned the scenic values of the Wairoa River a ‘moderate’ 4 rating and specifically described the Te Reinga Falls as very scenic.⁵⁹

9.8 Water Quality

9.8.1 The following evidence identifies and highlights the Water Quality of Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River). In the Hawke’s Bay Regional Council Cultural Values Report 2018 it presented the following:

- a) Hawke’s Bay Regional Council regularly samples the water quality of the Wairoa River for E.coli at the Ski Club Ramp. E.coli concentrations are measured at these sites to determine whether a site is suitable for full immersion activities such as swimming. An overall bacterial risk rating is assigned based on three years of data.⁶⁰
- b) The water quality in the lower Wairoa River currently has high bacteria levels and is not safe for swimming.⁶¹

⁵⁶ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵⁷ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵⁸ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁵⁹ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁶⁰ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111;

⁶¹ Hawke’s Bay Regional Council – Wairoa River-Candidate-OWB-Report-201807111.

10. Cultural Monitoring

- 10.1 The Haggitt and Wade Hawke’s Bay Marine Information: Review and Research Strategy a report prepared for the Hawke’s Bay Regional Council identified and stated that:
- a) The Cultural-led monitoring has been largely motivated by a perception of deteriorating aquatic environments (diminished mauri) and in an effort to gain some insight into the current status of species of customary significance.
 - b) Through undertaking discussions with various hapū across the Hawke’s Bay there is a clear sense of abandonment and mistrust, (of regulatory bodies) and significant loss of mana stemming from the current state of their significant awa and wider moana. However, there also was a genuine willingness to work collaboratively and this was evident within many Iwi and Hapū Management Plans.
 - c) The report further identified the Mauri-model and that this model could encompass a decision-making framework that provides a culturally derived template within which indigenous values such as Mātauranga Māori, Kaitiakitanga, Tau utuutu and mana are explicitly empowered beside western-based science disciplines and guidelines provides a contemporary example of adopting and applying a mauri-based model to a degraded environment⁶².

11. Conclusion

- 11.1 Based on the evidence presented in the statement of evidence the findings confirm the following:
- 11.2 Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is of significant Māori Cultural Value to the Iwi and Hapū of Te Rohe o Te Wairoa.
- 11.3 Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) is a scared “Taonga” through Whakapapa and it is this “Taonga” which is the same “Taonga” described in the Treaty of Waitangi in which the Crown promised to protect as follows:
- (a) Article Two: confirmed and guaranteed Māori full and undisturbed possession of the land and estates, forests and fisheries, and other Taonga (thereby protecting Rangatiratanga).
- (This is reflected in the RMA obligation to recognise and provides for the relationship of Māori and their culture and traditions with their ancestral lands and other taonga as a matter of National Importance (Section 6 (e));

⁶² Tim Haggitt and Oliver Wade (2016): Hawke’s Bay Marine Information: Review and Research Strategy – A Report prepared for Hawke’s Bay Regional Council; p.p.102,103.

- 11.4 Rangī-Houa Māori Land Owners of Suburban sections 830 and 831 Kopu Road, Wairoa are to be acknowledged as an authority for Rangī-Houa and its freshwater and coastal marine space in partnership and collaboration with all other authority non-Māori and Māori, entering into their traditional takiwā (customary area). As promised by the Crown in the Treaty of Waitangi as follows:
- a) Article Three: gives Māori all the rights and privileges of British citizens. Practically, these rights can be expressed by Māori by their being involved in RMA processes – as members of the public –in addition to their interests as Tangata Whenua, the Treaty Partner to the Crown.
- 11.5 An assumption that Rangī-Houa Māori Land Owners of Suburban sections 830 and 831 Kopu Road, Wairoa had relinquished their Kaitiakitanga and Rangatiratanga of their Taonga is flawed. The Owners did not relinquish their Whakapapa rights, or their Treaty of Waitangi Rights. Yet the Wairoa District Council for over 20 years has continued to ignore these rights as this has been evident through their failure to consult or directly notify⁶³ Mrs Esther Foster (on behalf of the owners), in person and in the Condition(s) discussions of the resource consent application⁶⁴.
- 11.6 The impact on Māori Cultural Values and the ongoing Adverse Effects on the environment far outweigh the financial constraints as highlighted in Wairoa District Council resource consent application. A 35 year consent application to continue an outdated wastewater management is flawed. The wānanga and karakia to restore cultural connections as highlighted in the draft conditions, “WILL NEVER BE SUCCESSFUL AND FAIL,” Unless the treated and untreated wastewater discharges cease to continue.⁶⁵
- 11.7 International Best Practice in sustainable wastewater management is clearly ignored.
- 11.8 The treated and untreated wastewater discharge is culturally offensive and culturally destructive and it has an adverse impact on Mauri. In Wairoa, the adverse impact on Mauri is evident and can be seen in the high levels of poverty, substance abuse, gang activity, violence, and Whanau relationship breakdowns.
- 11.9 Te Wairoa Hōpūpū Hōnengenenge Mātangi Rau (The Wairoa River) “provides whanau water to bathe with, water to drink at the water edge, having flowed through the many running streams and creeks before entering the river, the river provided food for whanau, such as tuna, whitebait, kōura, flounders, kahawai and much more”⁶⁶.
- 11.10 In final, this statement of evidence seeks a decision from the Independent Hearing Commissioners to decline the current Resource Consent application based on the enclosed evidence.

⁶³ HBRC.s42A Officer Report;p.71,s.10:Consultation and Notification Assessment. .s.s.209:Direct Notification Parties List.2020;

⁶⁴ Wairoa WWTP Conditions – 4 September 2020 – Version 20: Condition 2. Maori Engagement;

⁶⁵ Huakina Development Trust - Waikato Iwi Management Plan Manuka: The Judgement of Mr Justice Chilwell in the High Court of New Zealand in 1987 when he ruled on the now historic Bowater case: p.65;

⁶⁶ Refer: Mrs Esther Foster Statement of Evidence.

Ina Kumeroa Kara-France

Tangata Whenua
HOPE O TE WAIROA (RWT) LTD
Rangi-Houa Māori Land Owners
Suburban sections 830 and 831 Kopu Road
Rangi-Houa, Wairoa.

Dated: 20 November 2020.

APPENDIX: 1.**1.1 The Submission.**

Appendix 1.1: The Submission.

Hawke's Bay Regional Council – Wairoa District Council Wastewater APP-123774; Consent Submission by Ina Kumeroa Kara-France and Hope O Te Wairoa Ltd Director Mrs Esther Foster. Pre-Hearing Dated: 17 October 2019, Location: Wairoa Airport.

Introduction

1. My name is Ina Kumeroa Kara-France, I hold a Masters of Business Administration in International Business (MERIT) and a Post Graduate Diploma in Business Māori Development. I am a Consultant and Former Independent Commissioner for the Resource Management Act 1991 and Consultant to Takitimu District Māori Council. I specialise in Resource Management Act 1991, Part 2 Considerations to Māori, Iwi Environmental Management Planning, Cultural Material Planning, Cultural Impact Assessments, Feasibility Studies, Business Case Research, Project Management and Economic Development. I have over 27 years experience in Governance, Executive Management and Operational Issues.
2. I am here to represent myself as a Resident of Kopu Road, Wairoa and I am here to represent my client Hope O Te Wairoa LTD as their Project Manager. My Client is the hapū of Rangi-Houa (Pilot Hill) and Whakamahi. They are the Māori Land Owners of Suburban sections 830 & 831 Kopu Road, Wairoa. Rangatira Mrs Esther Foster who is present by my side will now speak and introduce herself and then return the floor to me, so to continue with our submission.
3. Mrs Esther Foster - He Mihi Whakatau.

The Submission

4. ***We oppose the application as follows:***
 - 4.1. To discharge treated wastewater from the Wairoa Wastewater Treatment Plant to the Wairoa River within the coastal marine via an outfall structure (pipeline)(Rule 160 – Regional Coastal Environmental Plan (RCEP));

- 4.2. The Potential re-establishment of the main outfall structure within the coastal marine (relocation of main outfall structure) (Rule 177 – RCEP);
- 4.3. The Occupation of riverbed for the main outfall structure within the Coastal Marine Area (Rule 178 – RCEP);
- 4.4. To discharge untreated wastewater from the Alexandra Park and North Clyde pump stations via overflow outlet pipes into the Wairoa River (Rule 52 – RRMP);
- 4.5. To discharge untreated wastewater from the Kopu Road pump station via overflow outlet pipe into the Wairoa River (Rule 9 – RCEP); To discharge treated wastewater from the Wairoa WWTP via overflow pipe into the Wairoa River (Rule 160 – RCEP).

5. *Our Submission views are the following:*

- 5.1. It breaches the National Policy Statement for Freshwater Management regarding the Water Quality in Freshwater Bodies that have been degraded as a result of human contaminants.
- 5.1.1. NPS – FM: AA. Te Mana O Te Wai – Objective AA1: To consider and recognise Te Mana o Te Wai in the management of freshwater.

Policy AA1:

(a) Te Mana O Te Wai recognises the connection between water and the broader environment.

- Te Hauora o Te Taiao (the health of the environment), Te Hauora o Te Wai (the health of the water body) and Te Hauora o Te Tangata (the health of the people); and

(b) Values identified through engagement and discussion with the community including Tangata Whenua, must inform the setting of freshwater objectives and limits.

- 5.1.2. NPS – FM: A. Water Quality – Objective A1: To Safeguard.

(a) The life supporting capacity ecosystem processes and indigenous species including their associated ecosystems, of fresh water; and

(b) The health of people and communities as affected by contact with freshwater in sustainably managing the use and development of land, and of discharges of contaminants.

- 5.1.3. NPS – FM: D. Tangata Whenua Roles and Interests – Objective D1.

To provide for the involvement of Iwi and Hapū, and to ensure that Tangata Whenua values and interests are identified and reflected in the management of freshwater including

associated ecosystems and decision making regarding freshwater planning including on how all other objectives of this national policy statement are given effect to.

Policy D1.

Local Authorities shall take reasonable steps to:

(a) Involve Iwi and Hapū in the management of freshwater and freshwater ecosystems in the region.

(b) Work with Iwi and Hapū to identify Tangata Whenua values and interests in freshwater and freshwater ecosystems in the region; and

(c) Reflect Tangata Whenua values and interests in the management of and decision making regarding freshwater and freshwater ecosystems in the region.

5.2. It breaches the Resource Management Act 1991 Part 2 Considerations to Māori;

5.2.1. Section 5: of the RMA states that the purpose of the Act is:

...to promote the sustainable management of natural and physical resources;

Sustainable management is defined in section 5(2) as follows:

In this Act, sustainable management means managing the use, development and protection of natural and physical resources in such a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while -

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and

(c) Avoiding, remedying, or mitigating and adverse effects of activities on the environment.

5.2.2. Section 6: In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance;

(e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;

5.2.3. Section 7: In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall have particular regard to -

(a) Kaitiakitanga: – the ethic of stewardship in regards to ensure sustainability (of the whanau, hapū or Iwi) in physical, spiritual, economic and political terms. It is the responsibility of those managing resources to ensure survival and political stability in terms of retaining authority over an area. Including in Kaitiakitanga are concepts concerning authority and the use of resources (Rangatiratanga, Mana Whenua), spiritual beliefs ascertaining to sacredness, prohibition, energy and life-force (tapu, rahui, hihiri, and mauri) and social protocols associated with respect, reciprocity, and obligation (manaki, tuku and utu).

5.2.4. Section 8 of the RMA, Principles of the Treaty of Waitangi', states:

In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

(a) Article Two: confirmed and guaranteed Māori full and undisturbed possession of the land and estates, forests and fisheries, and other Taonga (thereby protecting Rangatiratanga).

(This is reflected in the RMA obligation to recognise and provides for the relationship of Māori and their culture and traditions with their ancestral lands and other taonga as a matter of National Importance (Section 6 (e));

(b) Article Three: gives Māori all the rights and privileges of British citizens. Practically, these rights can be expressed by Māori by their being involved in RMA processes – as members of the public –in addition to their interests as Tangata Whenua, the Treaty Partner to the Crown.

Our Recommendations

6. *We recommend the following:*

- 6.1. Māori – Hapū are in partnership in Decision Making regarding a NEW SOLUTION of the discharge of Untreated and Treated Waste.
- 6.2. Land Solutions are researched for the productive and/or commercial use of Untreated and Treated Waste.

- 6.3. A Financial Compensation to be paid to the Hapū and the Community of Wairoa for the breaches to National Policy Statement in Freshwater Management and the Resource Management Act 1991.
- 6.4. The Regional and Local Councils are to restore the Wairoa Awa i.e. Green Belt, to its natural state for all reasons as stated above and employ and/or contract the local community at market rates to carry out the task.
- 6.5. A Cultural Impact Assessment to be commissioned.

7. Further Issues.

- 7.1. No Notification to Hope O Te Wairoa Ltd “the Hapū” since 1999 to 17 October 2019.
- 7.2. No acknowledgement to Hope O Te Wairoa Ltd “the Hapū” in the consultation process and/or an invite as a member of the Wairoa Wastewater Stakeholder Group.
- 7.3. The Wairoa Wastewater Stakeholder Group was formed as an Affco Resource Consent Condition and therefore a new Stakeholder Group should be formed to address the WDC Resource Consent with the Hope O Te Wairoa Ltd “the Hapū” taking the leadership role in partnership with WDC decision making.
- 7.4. The Cultural Impact Assessment to be rejected as the assessment was commissioned for the Affco Resource Consent and therefore a new Cultural Impact Assessment should be commissioned with the Hope O Te Wairoa Ltd “the Hapū” taking the leadership role in partnership with WDC decision making.
- 7.5. The Technical Reports are to be reviewed as there is a conflict of interest regarding Triplefin and EAM consultancy as Mr Shade Smith is the Husband of a Senior Staff member of the Hawke’s Bay Regional Council.
- 7.6. The Technical Reports are to be reviewed as there is a confusing letter from DR Shaw Mead, the Managing Director of E Coast Marine Consulting and Research Dated 2 April 2018 to Mr Phil Lake of Lowe Environmental Impact Re: Stage 1: Peer Review of Estuary and ocean receiving Environment Report A3I1b Resource Consent Renewal process: Dr Mead quoted EAM (2011) Report...”given the decreased species diversity there is some evidence that overall conditions in the river estuary are deteriorating over time. Additionally, the Wairoa District Council discharge as also a measurable contributing stressor to infaunal communities particularly at the downstream impact site A, and this is in evidence as, increased levels of variability among the summary indices compared to the other monitoring sites”. However, Technical Reports viewed claim that there are no ecology effects on the environment.
- 7.7. The WDC Resource Consent Activities have Cultural, Social, Environment and Economic, Financial Impacts on Hope O Te Wairoa Ltd “the Hapū”.
- 7.8. The WDC Resource Consent expired 31 May 2019. There is a 130 day holding period of the application by HBRC. The application is now 9 days overdue.

7.9. Te Rohe o Te Wairoa Reserves – Matangirau established by section 62 of the Reserves Act 1977:

(a) Rangi-Houa (Pilot Hill) Historic Reserves;

(b) Whakamahi Lagoon Government Purpose Wildlife Management Reserve protected under Te Rohe o Te Wairoa Claims Settlement Act 2018.

References:

1. Making Good Decisions – A Resource for RMA Decision Makers;
2. Chief Judge Wilson Isaac: Waitangi Tribunal Stage 2 Freshwater & Geothermal Resources Claims Report 28 August 2019;
3. National Policy Statement – Freshwater Management: Ministry for the Environment;
4. HBRC – WDC Resource Consent Documentation sent by email on the 15 October 2019.

APPENDIX: 2.**2.1 Exhibit: A.**

Figure 1. Block: Suburban section 830 - 0.08094 ha;

2.2 Exhibit: B.

Figure 2. Block: Suburban section 831 - 1.6186 ha.

2.1 Exhibit: A.

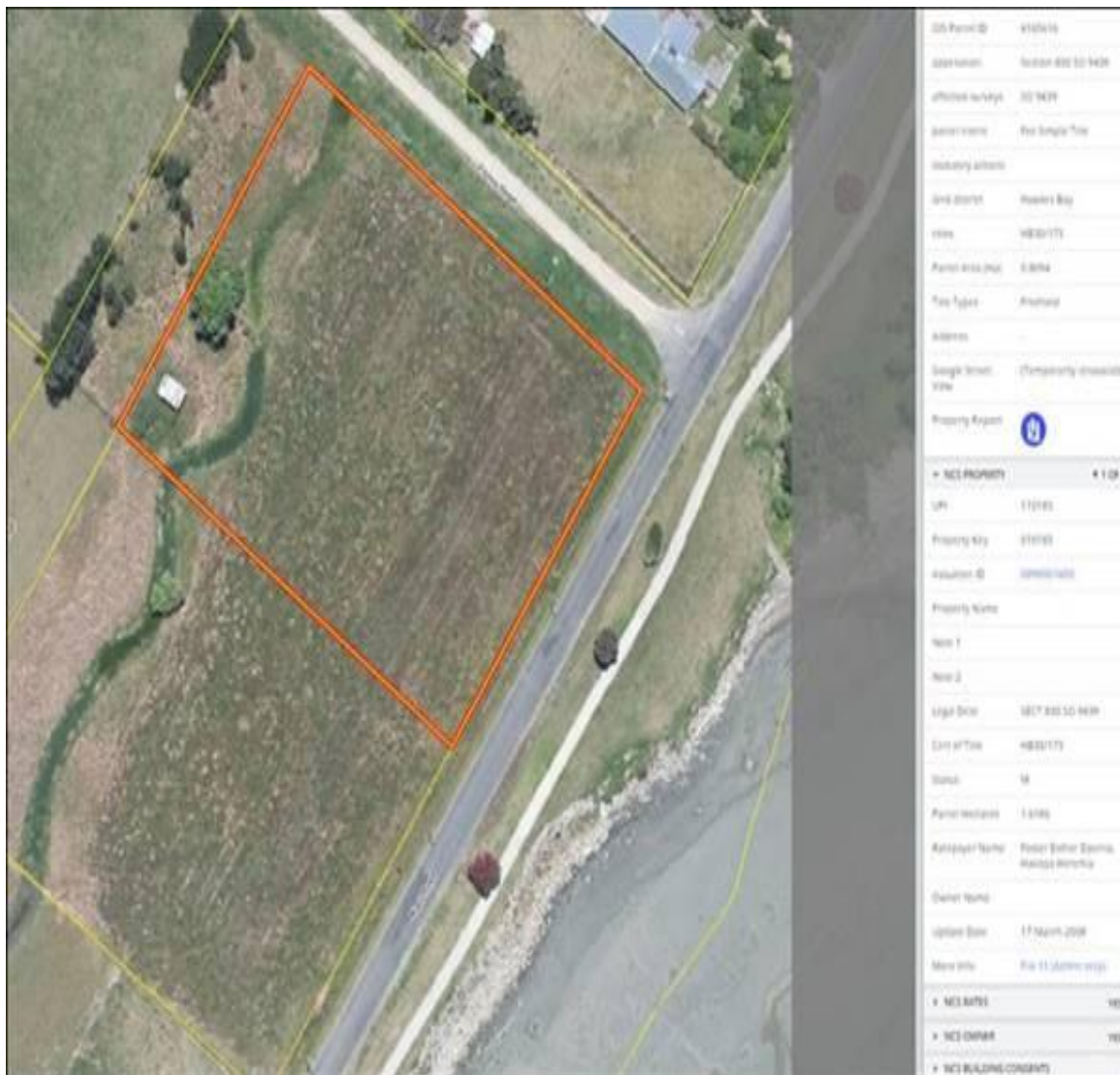


Figure 1. Block: Suburban section 830 – 0.08094 ha

2.2 Exhibit: B.

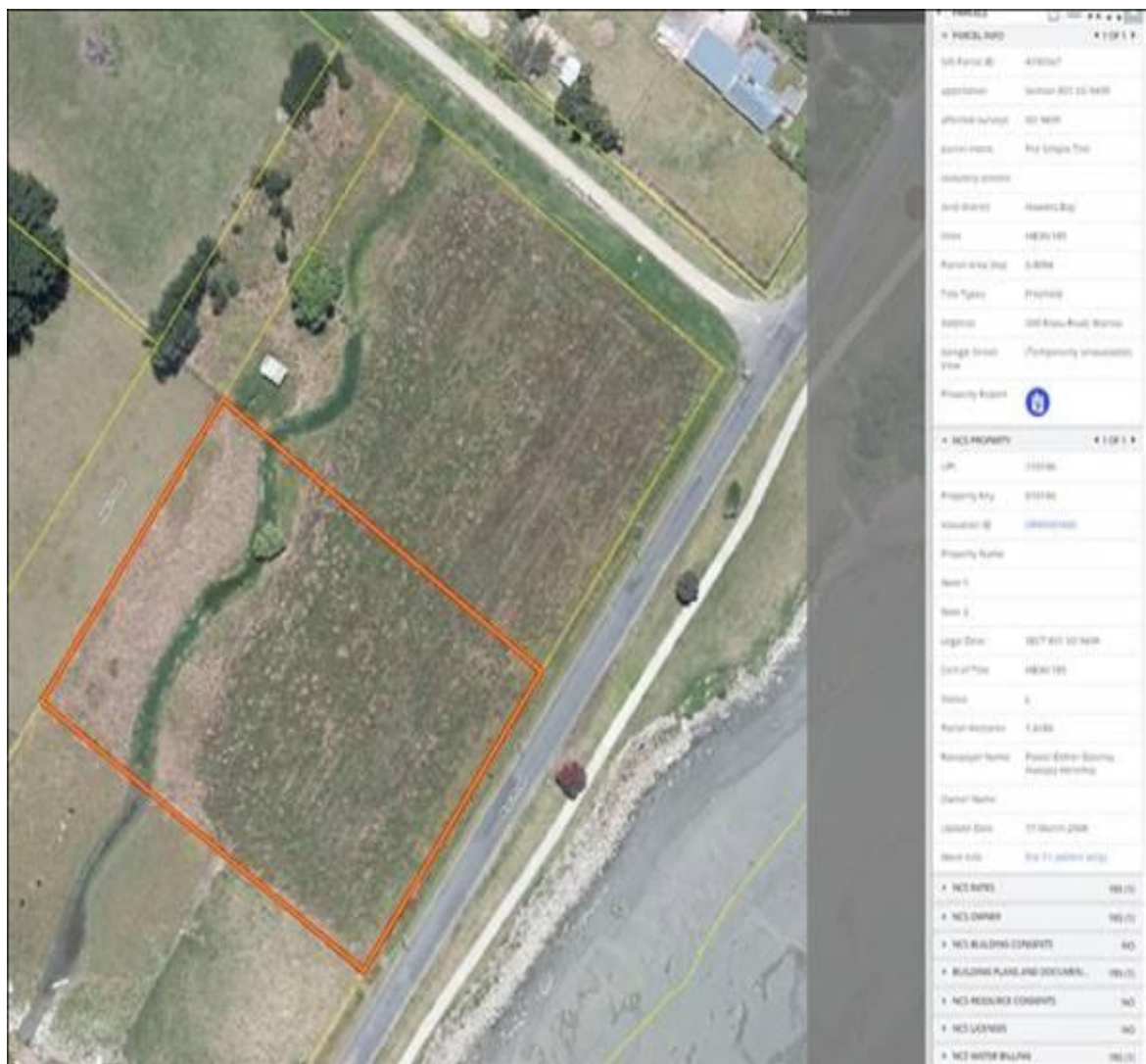


Figure 2. Block: Suburban section 831 – 1.6186 ha.

APPENDIX: 3.**3.1 Exhibit: C.**

Figure 3. Photo: Tangata Whenua White Baiting and Fishing, Rangi-Houa Kopu Road, Wairoa. (25 metres from the Untreated Discharge Pipe)

Dated: 05/10/2019 Time: 11.04 a.m.

3.2 Exhibit: D.

Figure 4. Photo: Tangata Whenua Fishing, Kopu Road, Wairoa.

Dated: 05/11/2019 Time: 11.20 a.m.

3.3 Exhibit: E.

Figure 5. Photo: Tangata Whenua Fishing, Kopu Road, Wairoa.

Dated: 05/10/2019 Time: 2.24 p.m.

3.4 Exhibit: F.

Figure 6. Photo: Tangata Whenua Boating and Fishing, Kopu Road, Wairoa.

Dated: 05/11/2019 Time: 11.33 p.m.

3.5 Exhibit: G.

Figure 7. Photo: Tangata Whenua White Baiting, Kopu Road, Wairoa.

Dated: 05/10/2019 Time: 2.26 p.m.

3.6 Exhibit: H.

Figure 8. Photo: Tangata Whenua Fishing, Kopu Road, Wairoa.

Dated: 05/10/2019 Time: 5.34 p.m.

3.7 Exhibit: I.

Figure 9. Photo: Tangata Whenua Fishing, Kopu Road, Wairoa.

Dated: 05/10/2019 Time: 5.24 p.m.

3.8 Exhibit: J.

Figure 10. Photo: Tangata Whenua Checking Fishing Nets, Kopu Road, Wairoa.

Dated: 09/10/2019 Time: 8.21 a.m.

3.9 Exhibit: K.

Figure 11. Photo: Tangata Whenua White Bait catch, Kopu Road, Wairoa.

Dated: 09/10/2019 Time: 8.29 a.m.

3.10 Exhibit: L.

Figure 12. Photo: Tangata Whenua White Baiting and Fishing, Kopu Road, Wairoa.

Dated: 12/10/2019 Time: 8.50 a.m.

3.11 Exhibit: M.

Figure 13. Photo: Tangata Whenua Net Fishing, Kopu Road, Wairoa.

Dated: 14/10/2019 Time: 12.20 p.m.

3.1 Exhibit: C.



Figure 3. Photo: Tangata Whenua White Baiting and Fishing Rangi-Houa Kopu Road (25 metres from the Untreated Discharge Pipe) Wairoa. Dated: 05/10/2019 Time: 11.04 a.m.

3.2 Exhibit: D.



Figure 4. Photo: Tangata Whenua Fishing Kopu Road, Wairoa. Dated: 05/11/2019 Time: 11.20 a.m.

3.3 Exhibit: E.



Figure 5. Photo: Tangata Whenua Fishing, Kopu Road, Wairoa. Dated: 05/10/2019 Time: 2.24 p.m.

3.4 Exhibit: F.



Figure 6. Photo: Tangata Whenua Boating and Fishing Kopu Road, Wairoa.

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Figure 13. Photo: Tangata Whenua Net Fishing, Kopu Road, Wairoa.

Dated: 14/10/2019 Time: 12.20 p.m.

APPENDIX: 4.**4.1 Mayor of Wairoa – Letter of Support.**

4.1 Mayor of Wairoa Letter of Support.



23 July 2019

Ina Kara-France
Hope o Te Wairoa (RWT) Ltd
C/- 6 Mansfield Street,
Wairoa 4108,
Hawkes Bay,
New Zealand

Tēnā koe Ina

FEASIBILITY STUDY: Hope o Te Wairoa Bi-Cultural Tourism Motor Camping Facility Proposal

The Wairoa District Council supports the Hope o Te Wairoa Proposal Feasibility Study Bi-Cultural Tourism Motor Camping Facility Proposal and the associated Whenua Māori Fund application, subject to all legislative requirements being met and required consent approvals granted in relation to the proposed venture.

Naku noa nā



Craig Little
MAYOR, WAIROA DISTRICT COUNCIL

References

1. Hawke's Bay Regional Council Cultural Values Report 2018;
2. Wairoa District Council Document titled: The History of Ngati Kahungunu of Wairoa;
3. Wairoa District Council Rangi-Houa Pilot Hill Heritage Reserve Management Plan;
4. Mrs Esther Foster Statement of Evidence 2020;
5. Resource Management Act 1991 Part 2. Considerations to Māori;
6. National Policy Statements for Freshwater, Coastal and Marine;
7. Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018;
8. Heritage New Zealand Pouhere Taonga Act 2014;
9. Stage 1. The Waitangi Tribunal National Freshwater and Geothermal Resources Claims Report 2012;
10. Stage 2. The Waitangi Tribunal National Freshwater and Geothermal Resources Claims Report 2019;
11. The Water Service Regulator Act 2020 and Taumata Arowai – the Water Services Regulator;
12. The Treaty of Waitangi;
13. Wairoa WWTP Conditions – 4 September 2020 – Version 21 Draft;
14. The Hawke's Bay Regional Council Assessment of Resource Consent Application S.42A Officers report Dated: 6 November 2020;
15. Huakina Development Trust v. Waikato Water Board 1987(2), 188;
16. Waikato Iwi Management Plan Manuka: Huakina Development Trust;
17. Tim Haggitt and Oliver Wade (2016): Hawke's Bay Marine Information: Review and Research Strategy – A Report prepared for Hawke's Bay Regional Council; p.p.102,103.