

06/06/2023

Waka Kotahi NZ Transport Agency  
C/- Amberley Gibson  
PO Box 740  
Napier 4140

**Our Ref:** APP-128957 (quote this number when discussing application with HBRC staff)

Dear Sir/Madam

### Request for Further Information

I have reviewed your resource consent application APP-128957 and to install, use and maintain a bridge, culverts, culvert extensions, and erosion and scour protection structures in and over the bed of Kings Creek (Pohatanui Stream), to discharge contaminants to land that may enter water, to discharge operational stormwater to surface water, to temporarily divert streams/watercourse during construction of a bridge in the Waikare Gorge, to clear vegetation in an area within 6 meters of Kings Creek (Pohatanui Stream). More information is needed so that I can better understand your proposed activity and its potential effects.

In accordance with Section 92 of the Resource Management Act (1991) (RMA) I request the following information:

#### Cultural Effects

1. The proposal is situated over and adjacent to Ngāti Pāhauwera's and Maungaharuru-Tangitū Hapū's statutory acknowledgement area (the Waikari River as set out in Ngāti Pāhauwera Treaty Claims Settlement Act 2012 and Maungaharuru-Tangitū Hapū Claims Settlement Act 2014) and as outlined in the application information, it is important to understand the matters relevant to mana whenua. **Please provide Cultural Impact Assessments which consider the potential effects on those values and matters relevant to Ngāti Pāhauwera and Maungaharuru-Tangitū Hapū.**

#### Erosion and Sediment Controls

2. The application provides very limited information on the proposed erosion and sediment control (ESC) measures, aside from noting that controls consistent with the HBRC Guideline will be implemented, and the provision of corresponding conditions. Typically, as a minimum for projects of this scale, a draft / indicative ESCP and drawings at a high level would be provided, with details to follow in site specific ESCPs. That would also include discussion on specific higher risk areas such as stream works and bridges, and areas (if any) where Guideline compliant controls cannot be implemented. This will inform the

assessment of effects. **Please provide a draft ESC Plan that incorporates this information.** An estimate of sediment yield from the works is not required.

3. **Please state the expected total area of land disturbance that will occur during the works.**

#### **Effects Management Hierarchy**

4. The ecological assessment states the proposed offsets will result in a gain of ecological function however, it is unclear as to whether the ecological function gain would be a 'like for like'. It is understood that specific details will not be completely understood until a time that the detailed design is complete however, and to appropriately satisfy the requirements of the effects management hierarchy of the National Policy Statement for Freshwater Management (NPS-FM) 2020, **please clearly outline the how the proposal addresses those matters set out in:**
  - a. s3.22(3)(a)(i)-(iii) and the principles of Appendix 6 and 7 of the NPS-FM relating to wetlands; and
  - b. s3.24(3)(a)(i – iii) and the principles of Appendix 6 and 7 of the NPS-FM relating to rivers.

#### **Hydraulics - Flood flow Conveyance**

The following questions and supporting comments were raised by Council's reviewing engineer Kyle Christensen:

*Two of the culverts not required for fish passage (Ref 2/C12815 and 9/C15830) did stand out as requiring relatively significant upstream headwater depths (>2 m) based on my own verification calculations to pass the design 100-year flood events. It is not clear from the information presented whether these headwater depths would affect property outside of the designation and what risks they may present to the road embankment. Further information is required to understand these flood related effects. Both of these culverts also have high outlet velocities which is discussed under Erosion below.*

5. **Please check the capacity of proposed culverts 2/C12815 and 9/C15830 and if they are to remain at their currently proposed sizes (DN450 mm and DN375 mm) then provide an assessment of the effects of upstream flooding due to headwater requirements to pass design flows.** Alternatively, if the diameters are increased so headwater depths are less than 1 m then the upstream flooding assessment is not considered necessary.

*Culvert 2/C12815 has a very high outlet velocity for the 100-year event (5.19 m/s) which would likely require specific energy dissipation and something more robust than the currently proposed 200 mm diameter rip-rap. The same also applies for culvert 9/C15830 with a design outlet velocity of 2.90 m/s and 100 mm rip-rap proposed.*

*Similarly, culvert 4/C14200 has relatively high outlet velocity (3.08 m/s) and does not currently have any erosion protection proposed. It is noted from the design report that erosion controls for this culvert, along with the other fish passage culverts will be finalised at the detailed design phase.*

6. If culverts 2/C12815 and 9/C15830 are to remain the same size, **please provide further details for outlet energy dissipation, particularly for culvert 2/C12815**. If these culverts are increased as per question 5 above, then standard energy dissipation at the outlets would be considered acceptable.
7. It would appear that outlet erosion protection is likely to be required at culvert 4/C14200. In accordance with question 6 above, **please outline measures to protect this outlet from erosion and scour**.

#### **Fish Passage**

8. No eDNA information of the stream site selected for restoration was provided and HBRC's in house ecologist expressed concern that the waterfall in plate 3-37 of the Ecological Report may be an insurmountable barrier even for climbing eelers. **Please undertake and provide to Council eDNA survey information in the location of the proposed stream restoration site**.

If from the results of the eDNA survey show there is an absence, provide an assessment to determine an alternative stream site within the activity area better suited (containing existing eel population) for restoration.

#### **NES-F Regulation 42**

9. The application information states Regulation 42(1 – 3) of the National Environmental Standards for Freshwater (NES-F) 2020 are rules applicable to the proposal however, it is unclear as to whether conditions (4 – 5) would be complied with. **Please confirm how the conditions under Regulation 42(4 – 5) would be complied with in regard to all relevant activities**. If conditions 42(4 – 5) are not able to be complied with, the activity would therefore be considered a Non-Complying Activity in accordance with Regulation 54.

#### **NES-F Regulation 43**

10. The application information states the proposal is for construction, operation, maintenance and improvement of the state highway and associated infrastructure of State Highway 2. No assessment has been made to confirm whether or not maintenance of the proposal would comply with the conditions of Permitted Activity Regulation 43 or Restricted Discretionary Activity Regulation 44? **Please confirm compliance with conditions of the relevant Regulation**. If conditions for either Regulation 43 or Regulation 44 are unable to be complied with, resource consent would be required in accordance with Regulation 54 for a Non-Complying Activity.

#### **Other matters**

- a. Appendix E recognises the permitted activity criteria for the NES-CS may not be complied with dependent on the detailed design of the proposal. It is noted that if Rule 48, in particular 48(c), of RRMP cannot be complied with resource consent will be required pursuant to Rule 52. It is recognised that the methodology for managing contaminated soils may not be defined until such a time that detailed design is undertaken. Therefore, it is considered acceptable that consent not yet be applied for in relation to potential increase in concentration of contaminated substances on land but resource consent may be required in

the future. It would be expected at this time that further investigation and consulting a hydrogeologist to look into the risk to groundwater.

- b. Please provide an update on consultation with land owners and any approvals obtained.
- c. Although not directly transferrable to RMA continuum for adverse effects, the ecological assessment identified the proposal would potentially have '*moderate*' adverse effects both before and after mitigation. It is understood that those '*moderate*' adverse effects would likely be considered more than minor. Additionally, the ecological assessment states potential losses may not be able to be avoided. Given this, at this stage we consider that public notification may be required, but this will be confirmed after considering of the further information that has been requested.
- d. It is anticipated that further detail as to how fish passage will be enabled via the rock ramp for culverts C12200 and C13190 in accordance with best practice fish passage in the NIWA Fish Passage Guidelines would be required. It is acknowledged that the passage of 'swimming' fish is not required, so a steeper ramp angle such as 1:5 could be acceptable. Sufficient depth however is required for adult eels to pass the structure. Some relevant considerations include, but not be limited to:
  - i) The ramp should have a V-shaped (15°) or tilted cross-section to allow the fishway to operate over the full fish passage design flow range.
  - ii) Mixed grade irregularly shaped rocks (150-200 mm) should be embedded by 50%, with the longitudinal axis perpendicular to the ramp surface and the widest part of the stone facing into the flow, and arranged haphazardly with a spacing between rocks of 70-90 mm.
  - iii) A continuous low velocity wetted margin should be provided up the ramp throughout the fish passage design flow range.Conditions of consent to require the above, or a fish passage management plan or similar would likely be required through conditions of consent.
- e. Thought should be given to potential treatment of runoff from the stock bridge crossing. The application states this would be directed to streams without any treatment of stock urine and excretion encountered in the runoff. This should be collected and managed appropriately (see RRMP Rule 14).
- f. Terrestrial ecology is not a matter that falls within the scope of the consents required from HBRC except where required under RRMP Rule 8, but is an area where HBRC has an interest and expertise. HBRC terrestrial ecologists have provided the comments provided as an addendum to this s92 request letter.

You must respond in writing to this request, before **27/06/2023** and do one of the following:

- a) Provide the information.
- b) Tell us that you agree to provide the information, but propose an alternative reasonable date (suggest a date).
- c) Tell us that you refuse to provide the information.

It is important that you respond to this request.

If you fail to respond within the time limit, or refuse to provide the information requested, Council must:

- Process the application on a publicly notified basis pursuant to s95C(1) and (2) of the RMA; and
- Consider the application under s104 of the RMA.

I have put processing of your application on hold until we receive your response.

Please contact me via the details below if you have any questions.

Yours faithfully



Brandon Baillie

**Senior Consents Planner**

**Policy and Regulation Group**

Phone: (06) 835 9200

Email: [brandon.baillie@hbrc.govt.nz](mailto:brandon.baillie@hbrc.govt.nz)