

File No: WGN140054 [32483] and [32485] - [32488] – Ōtaki River
3 April 2019

**Report on a pre-hearing meeting held on 20.03.19
From 10.30am to 1.00pm at GWRC Offices, Shed 39, 2 Fryatt Quay,
Pipitea, Wellington**

GWRC Flood Protection Department Application for resource consents for river management activities in the Ōtaki River Catchment

Present

- Jenny Grimmett – Independent Facilitator, Down to Earth Planning Ltd;
- Michelle Conland - Consultant Planner, for GWRC Environmental Regulation;
- Jacky Cox – Engineer, GWRC Flood Protection;
- Sarah Bevin – Senior Planner, Tonkin & Taylor for GWRC Flood Protection;
- Libby Cowper – Senior Solicitor, Buddle Findlay for GWRC Flood Protection;
- Tracy Berghan – Project Manager, GWRC Flood Protection;
- Ken Murray – Planner, Department of Conservation (DOC) via speaker phone;
- Peter Wilson – Senior Environmental Planner – Wellington Fish & Game Council;

Ms Beal left the meeting at 12.00pm after she had spoken to the matters in the KiwiRail submission (refer Item 2 below).

1. Introduction

Facilitator Jenny Grimmett opened the meeting by welcoming everyone and explaining that the meeting was one of a series of pre-hearing meetings (PHM) with the purpose to discuss submitters' concerns relating to the consent application for the Ōtaki River.

Various representatives of the Applicant (GWRC Flood Protection) explained that at the pre-hearing meetings held on 11 and 24 October for the Hutt and Wainuiomata Rivers, agreement had been reached between submitters on the draft consent conditions and Code of Practice documents in respect of those rivers. They advised that discussions relating to the Waikanae River were ongoing following PHMs for that river held on the 5th and 12th December 2018, and that a further PHM for the Waikanae River would be held in April 2019. There was an initial brief discussion about the Waikanae River with Mr Murray to follow up some matters that had been discussed at the previous PHM for that river.

Tracy Berghan (Applicant) advised that she would not go over the background to the development of the draft consent conditions and Code of Practice documents that had been circulated prior to the meeting, other than to say that a few changes has been made to these documents. The changes were not substantive and mainly to do with the iwi role and SSEMPs¹. She advised she would run through the changes so there were no surprises, and commented that the changes were largely to “tighten things up” and avoid misunderstandings. There was nothing new, just better wording.

Libby Cowper (the Applicant’s solicitor) explained that some of the changes were based on agreements from the previous PHMs for the group of rivers that are the subject of the river management activities consents. The documents were too large to email to some of the submitters so hard copies were available. Ms Cowper reiterated Ms Berghan’s comments that the changes were not substantive, all were minor and related to the Consenting Framework in Appendix 2 and cross-referencing these updates in other parts of the documents.

Specific changes were also made in response to a submission from Caleb Royal of Ngā Hapu o Ōtaki to ensure that mana whenua cultural values and mana whenua involvement opportunities were clearly referenced. This only required a few updates. GWRC was able to agree to most of Mr Royal’s requirements but others needed more discussion as they were either not understood or were outside the scope of the consenting framework. This would be discussed with him at the next PHM to be held in Ōtaki the following day (21 March 2019). Ms Cowper advised the main change in the new version was that the Annual Work Plans (AWP) would specifically include the effects on mana whenua values and their aspirations for the river corridor and floodplain (section 5.5 of the Code). The amendments also separated out mana whenua from the general “stakeholders” list at section 10.3.1 of the Code on Page 35.

Ms Cowper also noted changes to Table 3 (Summary of river aquatic species and their life history requirements) on page 26 of the Code including factual matters relating to the life history and migration habits of *galaxiid* adults and juveniles and common smelt and lamprey. Mr Royal had disagreed with some of the matters listed in Table 3. Mr Royal’s comments were sent to David Cameron for feedback with amendments being made as a result of Mr Royal’s comments. Mr Murray (DOC) noted that he would ask Natasha Petrove (DOC) to check this information correlates with information DOC has for these species in the North Island.

There was a brief discussion by all attendees on the role of the Department of Conservation over the last 10 years and the implications of DOC having no involvement in hearings during this time. It was noted that DOC has a role for all freshwater fisheries, and not just native fish, and that other Acts are also relevant to DOC’s role. Overlaps with this other legislation need to be taken into account as part of the consents process.

¹ Site Specific Environmental Monitoring Plans

Ms Cowper referred to other changes (no substantive changes, just improved descriptions) made as follows:

- Code - Section 10.3.13 on Page 51 to provide important context for the maintenance and protection of Maori cultural values;
- Code - Section 10.4.6 on Page 72 relating to construction and maintenance of permeable structure;
- Code - Section 10.3.9 on Page 44 relating to the issues raised in the KiwiRail submission being incorporated, as per the agreed approaches for the other rivers discussed at previous PHMs;
- Draft condition 7.3 to include as an objective of Rōpū Kaitiaki that they make recommendations on the appointment of independent experts under condition 9.2 (Independent Review Panel)
- Draft condition 9.1 to include that when the consent holder appoints and establishes an Independent Review Panel that they have regard to the recommendations of the Rōpū Kaitiaki

Ms Berghan asked Ms Cox to provide a summary of progress with the Gibbons Street flood works in the Hutt River as a comparative parallel process with the proposed rivers consent framework. Ms Cox explained that the Gibbons Street project enabled GWRC to identify issues that still needed to be addressed in terms of how Operations Management Plans and SSEMPs were prepared and implemented. It has highlighted the need to be more explicit about constraints and the language used. The Council had involved David Cameron on this work and this resulted in more emphasis on determining the necessity of the work prior to commencing anything and whether alternative approaches could be better, the need to document on-site judgements such as retrospective changes in methodologies, and to do what is stated in confirmed documents. The project highlighted the difficulties in ensuring on-site autonomy for site operators while also providing transparency in documentation. Ms Cox noted there had been good feedback from DOC on this process, and that there was a need for more “avoid, remedy and mitigate” measures to be included in the SSEMPs. The learnings from the Gibbons Street project would be carried through to the current rivers consents.

There was general discussion from the Applicant’s representatives that the rivers consents were based on a culture change that the Regional Council was leading to improve education of staff at all levels so it was normal to look at all relevant issues relating to a river and not just the flood management function and the associated engineering. The overall intent is to ensure things are more streamlined, good empowered conversation can happen, and higher transparency occurs.

Ms Beal (KiwiRail) reiterated KiwiRail’s stance on health and safety and confirmed she was happy with everything so far, and Mr Wilson (Fish & Game) referred to some concerns

by his manager which Ms Berghan agreed to address. A discussion then followed about the Waikanae River and the inclusion of the Department of Conservation's Scientific Reserve in the consent conditions for that river, as well as the reporting process and the need for templates (refer section 2 for more details of issues raised and discussed by these three submitters).

The meeting then moved on to a discussion of specific issues raised in submissions, as covered in Section 2.

Documents circulated prior to the meeting, and provided as hard copies at the meeting included:

1. Western Rivers: Consenting Framework;
2. Western Rivers: Conditions of Consent for River Management Activities (Draft dated 9 January 2019); and
3. Code of Practice for River Management Activities Version 19 dated 9 January 2019.

2. Discussion of issues

Templates and Reporting: Ms Beal asked if there were any changes being made to the Conditions / Code covering reporting and if there was a template for reporting. Ms Cox and Ms Berghan explained that the only changes were tightening up the existing wording. Ms Cowper explained that the Code will be the place where you go to in order to figure out what you need to do, when SSEMPs are triggered etc, and the main changes relating to this are in Appendix 3. Ms Cox and Ms Berghan explained that a template is to be developed and it had not been decided whether it would be in the Code or the Conditions. It would need to be included as a "hyperlink" to a document so the document could be updated.

SSEMPs and OMPs: Regarding the SSEMPs it was noted that in all cases the need for gravel extraction must be established. OMPs (Operations Management Plans) will be developed on a reach by reach basis with input from iwi and others. The values of each reach would be identified in the NCI (Natural Character Index)/HQI (Habitat Quality Index) process in parallel. A discussion of the provisions relating to NCI /HQI noted that these provided for monitoring of cumulative effects of the works and need to be done within 12 months of the commencement of the consents under draft conditions 6.4 and 6.5. It was agreed among Mr Wilson, Ms Cowper, Ms Berghan and Ms Cox that there was scope to "flesh out" these conditions.

Fish & Game Council: - Mr Wilson (Fish & Game) discussed some uncertainties held by his manager and requested a formal letter from GWRC stating that no gravel extraction would occur in the Waikanae River unless it was done under the proposed consents and other matters (see below in Section 2). Ms Berghan noted that there is no ability to extract gravel from the Waikanae River under the current consents and agreed to prepare and provide a letter of this nature to Fish and Game.

Mr Wilson advised the following things that would help Fish & Game:

1. The SSEMP process needs to be used. Mr Wilson noted that Fish & Game's Mr Teal has concerns that gravel extraction will occur without a SSEMP, for example under existing powers or some form of emergency works. Applicant representatives expressed surprise at this and noted that Mr Teal had been present at several meetings where it had been stated that this would not be the case. Mr Wilson explained that Mr Teal's concerns could be allayed if a letter on GWRC letterhead was provided explaining which consent the works would be done under, and that it would only happen under the consents the subject of this PHM and that a SSEMP would be used.
2. The cross-sections of the Waikanae River need to be redone;
3. The NCI/HQI process need to be undertaken; and
4. Geomorphology, coastal processes and native fish information needs to be monitored/identified.

It was noted in discussion that Mahina-a-rangi Baker from Te Ātiawa would also need to be involved in terms of iwi input.

Mr Wilson also considered it was necessary to explain to others in simple terms the difference between what is in the global consents for the Wellington rivers and what can be done under other consents or legislation.

Mr Wilson confirmed he required the letter referenced in point 1 above covering the Waikanae River. Once this had been received, he would write a single letter withdrawing Fish and Game's right to be heard to cover all of the rivers.

Change Management: A general discussion followed that the proposed approach in the Western Rivers Consents would enhance the role of contractors and would potentially give them 'credit' for the decisions made in terms of river management solutions. This message would be conveyed to assist with buy in and ease concerns about additional work requirements and changes to the current work regime. There would be support for the people involved from Ms Cox's team to assist with the paperwork, and the overall outcome would be greater transparency, better documentation, and reduced project risks. Ms Berghan noted that much of the resistance to change to date was a perception, people were moving with the times and the new ways of thinking, and the proposal will still allow things to happen. Mr Wilson suggested that the independent review panel, as one of its functions, could look at systems and reporting and on-site changes. This could be covered in Condition 9.3(a)(ii) and occur before the annual report to help with changes to methodologies. Ms Cox suggested Condition 8.5 could be amended to require the consent holder to "provide all Annual Reports, any SSEMPs ...to the IRP for review". Ms Berghan noted that the reporting process would also identify if there were no SSEMPs or lots of SSEMPs generated and then decisions could be made based on that information. Ms

Cowper suggested amending Condition 9.3(a)(i)(1) to add SSEMP. This amendment was seen by all participants as a value adding outcome.

KiwiRail: - Ms Beal (KiwiRail) reiterated KiwiRail's stance on health and safety in relation to electrified rails, and noted that major timeframes (at least 6 months) could be involved for arranging to approve flood works within 8 metres of the electrified rail line. Therefore, early communication was essential.

Ms Beal advised that KiwiRail had withdrawn their right to be heard on the Hutt and Waikanae Rivers, and that the KiwiRail submission was only on these rivers and the Ōtaki River. She would be interested in seeing the final changes to the documents so she could formally withdraw in respect of the Ōtaki River.

Ms Cowper confirmed the discussions with KiwiRail at the last PHMs for Waikanae and Hutt Rivers had resulted in the same amendments being made for the Ōtaki River, and referenced Section 10.3.9 of the Code.

Ms Beal confirmed she was happy with the changes made to the consent conditions and the Code of Practice to date in that they covered the concerns of KiwiRail. She indicated that KiwiRail would be willing to withdraw its right to be heard on this basis, provided she was able to follow the progress of the document changes in the meantime. She asked that the agreed wording in relation to KiwiRail's concerns not be changed.

Department of Conservation: Mr Murray confirmed that the proposed changes to the Ōtaki River consent conditions were excellent and he had no problem with them. He also noted he was following with interest the operational matters being developed as a result of the Gibbons Street work in the Hutt River. He supported identifying works clearly before works commenced and avoiding "mission creep". Overall, he wanted to know how to handle the sign off by DOC for the conditions of consent for the Hutt, Wainuiomata and Ōtaki Rivers.

Mr Murray confirmed he had no problem writing a recommendation to his decision maker to cover this, and then only needed to focus on the Waikanae River where there remained some unresolved matters.

Mr Murray asked to be sent copies of the minutes of this PHM and the one to be held at Ōtaki on 21 March. Ms Berghan confirmed the minutes would be sent to all parties. Mr Murray signed out on his conference call at 12.45pm.

Other Matters:

1. There was a brief discussion on iwi involvement in the PHM process and it was noted that mana whenua would be attending the next PHM on 21 March 2019.
2. Ms Berghan advised Ms Conland that a stocktake needed to be made of the withdrawals of submitter rights to be heard and coordinated with Doug Fletcher (GWRC Resource Advisor). The only outstanding submitters to withdraw are Fish & Game and DOC for

the Hutt and Waikanae Rivers. If there are any further tweaks required to be made for the Waikanae and Ōtaki Rivers this may delay the withdrawal by DOC and Fish & Game for the Hutt River consents.

3. Ms Cowper noted that applicant wanted to have the Waikanae Scientific Reserve included in the scope of the consents just in case works are needed in this area. However, as noted by Ms Berghan, GWRC is not planning to undertake gravel extraction in the Scientific Reserve. Ms Cowper also reiterated that there is a requirement under the Reserves Act that means GWRC could not take gravel from the reserve without DOC's prior agreement and there is a formal process that has to be followed to obtain this approval. Ms Cowper offered to include more clarification in the conditions covering this limitation to reassure DOC, including the process required to be followed under the Reserves Act. The clarification could also confirm that GWRC will not rely on the global consents for emergency works in the estuary. Ms Cowper and Ms Berghan also noted that a key reason for including the Scientific Reserve in the consents is to ensure that GWRC is able to demonstrate that it has undertaken due diligence at this time, in the event of any unexpected requirements for works in the future. The group noted that if the Scientific Reserve is to be included that information sought by DOC to be included in any SSEMP for work in the Scientific Reserve should be identified now. Mr Murray noted he would need to check with his decision maker (Jack Mace) on this, but this seemed okay.

Mr Murray advised he wanted to hold a walkover meeting on the Waikanae River to discuss the Scientific Reserve. The group discussed who needed to attend and if this was a PHM or a DOC initiated meeting. If the meeting is considered to be a PHM it was important to invite everyone but to let them know what the meeting was for. It was considered important to invite Mahina-a-rangi Baker (Te Ātiawa) to this, along with Kyle Christensen (engineer assisting GWRC). Mr Murray agreed he would check with his decision maker (Jack Mace) on who needed to attend and the purpose of the site meeting.

Mr Murray noted his concerns on behalf of DOC that the effects of sea level rise, highest astronomical tides (Jan/Feb), and the sinking of the Kāpiti Coast needs to be taken into account in hydraulic modelling in terms of inland inundation. He has noted the tides are the largest he has ever seen. He considers Kotuku Parks minimum 50mm floor levels may be superseded in 50 years. There is a need for information including LIDAR, sea level rise, 1975 Gita-like storm surge effects to be covered in modelling and he considers there are some quite significant issues to be addressed. He also considers there could be saline penetration further inland as he has noted kahikatea die off.

3. Issues in agreement

It was agreed that:

1. Additional changes to the conditions and Code would be made as discussed.

2. GWRC Flood Protection to provide a letter to Mr Teal of Fish & Game clarifying the process and giving an undertaking that gravel extraction work will not be done under the existing resource consents and requirements, and that this work would be undertaken under the new river consents once granted. Ms Berghan will provide this letter to Fish and Game as a priority and it was agreed that this needs to occur before the proposed DOC walkover meeting at Waikanae.
3. Monitoring of the components of the reaches of the river is to be set up and project managed by a specialist team at Massey University. The conditions of consent require this to be completed within a year of the consents being granted and a working group is to be established to address this. Waikanae River will be the first one to have this work commissioned.
4. Condition 6.5 sets out the process for the development of OMPs that allows the river to be broken down reach by reach and the relevant values for each reach identified.
5. The GWRC stance is that the flood protection issues are already known so the focus in this process is the ecological, natural, cultural and other river values.
6. All relevant matters relating to the KiwiRail submission have been addressed subject to there being “no curve balls” from now on or any changes to the wording agreed with Ms Beal.
7. A stocktake will be undertaken of the withdrawals by submitters of their rights to be heard for the various rivers.
8. Ms Cowper would prepare a revised outline within a week of the PHM of where the consent is sitting to assist Mr Murray’s discussion with his decision maker, Mr Mace, as to whether the Waikanae River Scientific Reserve is included in the scope of these river maintenance consents for the Waikanae River. Mr Murray agreed an email would be acceptable to cover this. He said it needed to cover upstream and downstream of the Scientific Reserve, and confirm no gravel extraction from the reserve is proposed at this time.
9. A walkover meeting for the Waikanae River with DOC may be arranged following Mr Murray’s check with Mr Mace as to who should attend, and in what form the meeting would take.

4. Issues remaining outstanding

It is noted that there are still matters to be covered in the next PHM to be held with Ōtaki River submitters on 21 March 2019, together with responses from mana whenua.

Mr Murray (DOC) also noted that he would ask Natasha Petrove from DOC to check the information on *galaxiid* history and habits correlates with information for the North Island.

The matters relating to the Waikanae River Scientific Reserve inclusion in the conditions are still subject to Mr Murray seeking advice from his decision maker Mr Mace.

5. Further information provided following meeting

N/A.

6. Close of Meeting

It was noted that the next pre-hearing meeting for the Ōtaki River was set down for 21 March 2019, and that a further PHM for the Waikanae River consent application will be held in April.

It was also noted that reports of these meetings (under Section 99 of the RMA) would be circulated to all submitters in due course.

Jenny Grimmett thanked everyone for their attendance and closed the meeting at 12.45pm.