

Date:	16 October 2019	Application Number:	DW-2019-106195-01/WI-2019-106213-01
Reporting Planner:	Connie Mills		

Related Applications:	DW-2014-106195-00, WI-2014-106213-00
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Applicant:	Eastland Port Limited
Property Address:	53 Dunstan Road, Matawhero
Legal Description:	Part Lot 3 DP 6770 contained in Record of Title GS4D/60 and Lot 4 DP6770 contained in Record of Title GS4D/61
District Plan:	Te Papa Tipu Taunaki o Te Tairāwhiti – Tairāwhiti Resource Management Plan
Zoning:	Rural Industrial B
Overlays:	Coastal Environment Area (General Management), Coastal Environment Overlay, F4 Areas Liable to Flooding, F5 Flood Fringe Area, Heritage Alert Overlay, Land Overlay 1, Ngāti Tamanuhiri area of interest, Rongowhaakata area of interest.
Activity Status:	Discretionary (S127 of the RMA)
Proposal:	To change Conditions 15, 17, 18, 19, 24 and 25 of consents DW-2014-106195-00 and WI-2014-106213-00.

1.0 INTRODUCTION

1.1 Proposal

The applicant, Eastland Port Limited, obtained resource consent to discharge stormwater from the Matawhero logyard to the Awapuni Drain in 2014 (DW-2014-106195-00/ WI-2014-106213-00). The applicant now wishes to change Conditions 15, 17, 18, 19, 24 and 25 of approved consents.

The conditions relate to discharge monitoring requirements and timeframes for reporting. The application explains that the changes are sought because:

- The drain is tidally influenced. Therefore, testing points and mixing zones are inconsistent to the requirements set by Conditions 15 and 17. Essentially the upstream and downstream sampling point change depending on the tidal flow in the drain. The existing consent conditions assume a one way flow. The requested change seeks to allow the upstream and downstream sampling points to be determined based on the direction of the flows.

- The timeframes set by condition 18, 19, 24 and 25 do not reflect realistic laboratory testing timeframes for both critical and non-critical results. The applicant has proposed to provide the results to Council within 2 working days of receiving the laboratory results when an exceedance occurs to reflect the urgency of the matter and within 5 working days of receiving the laboratory results when reporting as normal (where no exceedance has occurred).

Overall, the application is a discretionary activity pursuant to section 127 of the Resource Management Act (the 'Act' or 'RMA' hereafter).

1.2 Description of the Site

Matawhero Logyard is located on the southern side of Dunstan Road, near the intersection with MacDonald Road. The site is comprised of two lots, Lot 3 DP 6770 and Lot 4 DP 6770, and contains an area of approximately 9.97ha.

The site is approximately 1km from the coast. The Awapuni Drain is located 50m south-east of the subject site. This drain is a highly modified tributary of the Awapuni Stream and drains south towards the coast. Due to the close proximity of the drain to the coast, it is tidally influenced.

The Awapuni drain is a known habitat to longfin eels and shortfin eels.

The application describes the logyard as containing metalled storage areas, a vehicle gantry, heavy vehicle weighbridge, log scaling station, office/ amenities building, stormwater drainage and other facilities.

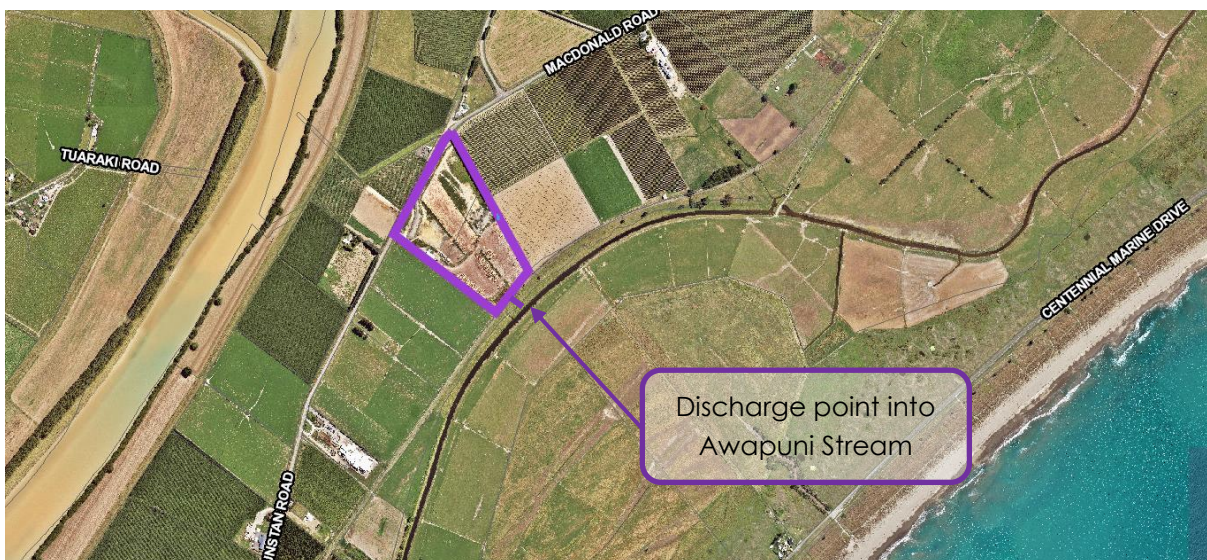


Figure 1. Subject site and location of discharge

1.3 History

The following resource consent decisions have been granted on the subject site:

- DW-2014-106195-00

- WI-2014-106213-00

1.4 Process Matters

A request for further information under Section 92 (1) of the Resource Management Act 1991 (the Act) was sent to the applicant on 17 April 2019 to address how compliance would be achieved by extending the monitoring points due to the tidal nature of the drain; and a request to provide the latest annual report required by the existing consent.

The initial application sought to change the testing locations to 20m upstream/ downstream and alter reporting timeframes. A number of skype meetings were held between the applicant's agent, Councils Environmental Health Team, and myself which resulted in the proposed variation to change by proposing to remove testing in the Awapuni drain instead testing at the pipe outlet and as a result, change the trigger point thresholds for water quality. Several additional alterations were suggested by the applicant's agent however, no agreement could be reached on whether these alterations would provide good environmental outcomes.

On 9 October 2019, an email was received from the applicant's agent advising that the scope of the variation had been refined to only include variations to conditions regarding the tidal nature of the drain and reporting timeframes. The application was removed from section 92 and processing continued.

2.0 REASON FOR THE APPLICATION

Section 127 of the Act allows for the holder of a resource consent to apply to the Consent Authority for a change or cancellation of a condition of a consent. This section of the Act states that Sections 88 to 121 apply to an application for change of consent conditions as if:

- a) The application were an application for a resource consent for a discretionary activity; and;*
- b) The references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of a change or cancellation respectively.*

The overall status of the application is a Discretionary activity.

3.0 SECTION 95A-G ASSESSMENT FOR THE PURPOSE OF NOTIFICATION

Section 95A(1) of the RMA states that the consent authority must follow the steps set out in that section, in the order given, to determine whether to publicly notify an application for resource consent.

Those steps are set out below, in the order provided in the RMA.

3.1 Step 1: Mandatory public notification in certain circumstances – s.95A (2-3)

The applicant did not request that the application is notified.

Further information was requested and responded to accordingly.

The application was not made jointly with an application to exchange recreation reserve.

Therefore, the answer to criteria in s95A(3) is no, mandatory public notification is not required, and we proceed to Step 2.

3.2 Step 2: Public notification precluded in certain circumstances – s.95A (4-6)

The criteria listed in s95A(5) are considered below.

Section 95A(5)(a) RMA requires consideration of whether public notification is precluded where 1 or more activities in a resource consent application are each precluded by a rule or national environment standard (NES).

There are no rules in the Tairāwhiti Plan or a national environmental standard relevant to this proposal that precludes public notification.

Section 95A(5)(b) RMA requires that public notification is precluded when an application for resource consent relates to a:

- Controlled activity;
- Restricted discretionary or discretionary activities for the subdivision of land or residential activities;
- Restricted discretionary, discretionary or non-complying boundary activities; or
- Prescribed activity.

The application is not for one of these activities, so public notification is not precluded under this provision.

The answer is 'no' and we proceed to Step 3.

3.3 Step 3: Public notification required in certain circumstances – s95A (7-8)

Section 95A(8) provides the criteria for consideration.

There are no rules in the Tairāwhiti Plan or a national environmental standard that require public notification (section 95A(8)(a) RMA).

Section 95A(8)(b) requires an assessment in accordance with s95D as to whether the activity will have or is likely to have adverse effects on the environment that are more than minor; this assessment is provided below.

3.4 Consent authority to decide if adverse effects likely to be more than minor – s95D

Effects that May or Must be Disregarded – s.95D(a), (b), (d) and (e)

Effects on owners and occupiers of the subject site, adjacent sites, and persons who have given written approval must be disregarded (s95D(a) and (e) RMA). The adjacent properties in this instance are those that adjoin the subject site.

No written approvals from owners and occupiers have been obtained.

Pursuant to section 95D(b) RMA an adverse effect of an activity may be disregarded if a rule or national environmental standard permits an activity with that effect, this is referred to as the permitted baseline. The permitted baseline is not relevant in this instance.

The effects of trade competition must be disregarded when considering an application for resource consent. No effects are deemed relevant.

3.5 Assessment of Adverse Effects – s.95A(8)(b) and 95D RMA

In accordance with Section 95A of the Act, resource consents must be publicly notified if the Consent Authority decides (in accordance with s95D) that the activity will have, or is likely to have adverse effects on the environment that are more than minor.

The application is for the change of monitoring conditions to a discharge consent. There is no proposed change to the scope of the activity, the treatment mechanisms, or quality of stormwater/ groundwater discharged. The change of conditions acknowledges the tidal nature of the Awapuni Drain and allows for reporting post laboratory testing. As such, there will be no change to adverse effects on the environment as a consequence of changing Conditions 15, 17, 18, 19, 24 and 25 from the assessment made in the original consent.

The assessment in accordance with s95D as to whether the activity will have or is likely to have adverse effects on the environment that are more than minor has concluded that there will be no adverse effects on the environment.

The answer is 'no', and we proceed to Step 4.

3.6 Step 4 Public notification in special circumstances – s.95A(9)

'Special circumstances' are not defined in the RMA. The Court's have previously described them as those that are 'unusual or exceptional' but may be less than extraordinary or unique. *Peninsula Watchdog Group (Inc) v Minister of Energy* [1996] 2 NZLR 529 (CA).

There are no special circumstances that warrant public notification.

The answer to Step 4 is 'no' and accordingly determination must be given to limited notification under s95B RMA.

4.0 SECTION 95B ASSESSMENT FOR THE PURPOSE OF LIMITED NOTIFICATION

The RMA provides at s95B(1) that the consent authority must follow the steps set out in that section, in the order given, in order to determine whether limited notification of an application should be given.

4.1 Step 1: Limited notification for customary rights, customary marine titles and statutory acknowledgement groups and persons – s.95B (2-4)

Limited notification is required if the consent authority believes any group with protected customary rights, customary marine titles, or those to whom a statutory acknowledgement is made are affected.

The discharge and subject site are located within Ngāi Tamanuhiri and Rongowhakaata statutory acknowledgement area of interest; however, the proposed variation to consent reflects a proposed change in monitoring and not the discharge activity itself. As such, no change to the environment will be permitted as a result of granting this variation.

Given the above statements there is no reason to believe that these certain groups or persons will be affected by the proposed activity.

4.2 Step 2: Limited notification precluded in certain circumstances – s.95B (5-6)

Limited notification is precluded if a rule or national environmental standard specifies so or when an application relates to a:

- Controlled activity (other than subdivision);
- Prescribed activity (section 360H).

The current application is for a discretionary activity to change conditions of consent and therefore limited notification is precluded in this instance.

Limited notification is not precluded under this section. There are no rules in the Tairāwhiti Plan that preclude notification and the proposal is not a controlled or prescribed activity.

4.3 Step 3: Limited notification of affected persons – s.95B (7-8)

In accordance with section 95E, a determination is required as to whether the following persons are affected:

- In the case of a boundary activity, an owner of an allotment with an infringed boundary.
- A person prescribed under section 360H(1)(b)

In the case of any other activity, an assessment is required in accordance with section 95E to determine affected persons.

The proposal is not for a boundary activity and there is not a person prescribed under section 360H(1)(b). An assessment under s95E is required.

4.4 Determination as to whether there are any affected persons – s95E

Section 95E RMA requires consideration of whether the activity has adverse effects on a person that are minor or more than minor, but not less than minor.

The adverse effect of an activity may be disregarded if a rule or national environmental standard permits an activity with that effect.

This was discussed in relation to public notification, with the exception that the adjoining properties were excluded from that consideration (section 3.4), and is considered relevant to the limited notification assessment of the adverse effects on the owners and occupiers of nearby properties.

Section 127 (4) of the Act states that for the purposes of determining who is adversely affected by the change or cancellation of a condition of consent, the consent authority must consider, in particular, every person who –

- (a) Made a submission of the original consent application; and
- (b) May be affected by the change or cancellation

Te Awapuni – Moana Charitable Trust were notified of the original consent; however, as the variation does not create any adverse effects on the environment it is considered that Te Awapuni cannot be adversely affected by this variation.

The answer to Step 3 is that there are 'no' persons affected.

4.5 Step 4: Limited notification in special circumstances

There are no special circumstances that warrant limited notification of any other persons.

5.0 SECTION 95 NOTIFICATION RECOMMENDATION AND DECISION

UNDER DELEGATED AUTHORITY

Pursuant to Sections 95A and 95B of the Act, application DW-2019-106195-01/WI-2019-106213-01 for a Discretionary Activity shall proceed on a **non-notified** basis for the reasons given above.

Reporting Planner



Approved By:



Connie Mills
Consents Planner

Date: 16 October 2019

Jo Noble
Strategic Planning Manager

Date: 17 October 2019

SECTION 104

A decision was made under Section 95 of the Act to process the application on a non-notified basis. An assessment of the application under Section 104 of the Act is provided below.

6.0 SECTION 104(1)A – ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

6.1 Effects Disregarded

Pursuant to Section 104(2) of the Act, when forming an opinion for the purposes of Section 104(1)(a), a Council may disregard an adverse effect of the activity on the environment if a plan or national environmental standard permits an activity with that effect (i.e. the Council may consider the 'permitted baseline').

The 'permitted baseline' was discussed in Section 3.4 of the approved notification report. That discussion and conclusion is also considered relevant for the purposes of the assessment under Section 104(1)(a). There is no relevant permitted baseline.

Pursuant to Section 104(3)(a) of the Act, when forming an opinion for the purposes of Section 104(1)(a), a Council must not have regard to any effect on a person who has given written approval to the proposal, nor any trade competition or effects of trade competition. No written approvals have been obtained, and trade competition is not a relevant consideration.

6.2 Actual and Potential Effects Relevant to This Proposal

The assessment of adverse effects in the approved notification report is also relevant for the purposes of the assessment required under Section 104(1)(a). The conclusion reached was that there are no adverse effects relevant to this proposal.

7.0 SECTION 104(1)(b) – RELEVANT PROVISIONS

7.1 Tairāwhiti Resource Management Plan

7.1.1 Objectives and Policies

The following objectives and policies of the Tairāwhiti Resource Management Plan are considered relevant to the proposal:

C6.2.2 Policies for point Source Discharges

3. Manage the adverse effects of stormwater discharges through:

a) Promoting low impact design and other stormwater management practices, and requiring it where there is a need to:

i. Improve the quality of stormwater discharges; or

- ii. Reduce volume and peak flows associated with additional runoff to manage risk to people and property from flooding and to maintain stream base flows;
or
 - iii. Protect Outstanding Waterbodies and wetlands;
 - iv. Protect the values of sensitive receiving environments;
- b) To ensure water quality objectives, targets and limits for the receiving waterbodies will not be compromised by stormwater discharges:
- i. Progressively reduce the adverse effects of discharges from the public stormwater network, giving priority to areas most affected by poor stormwater quality;
 - ii. Require discharges of stormwater runoff from new impervious areas and new industrial or trade premises to treat stormwater runoff prior to discharge;
 - iii. Require industrial or trade premises to manage stormwater discharges in accordance with a stormwater management plan detailing best practicable stormwater management. The stormwater management plan is to be provided to the Council for approval prior to the commencement of the activity or by May 2020 for existing activities.

8. When considering applications to discharge contaminants directly to land or water, assessment criteria are:

- a) The total contaminant load of the discharge [composition/flow rate] and how the water quality will be maintained within the limits for the waterbody, in a manner than achieves the objectives;
- b) The proposed treatment methods and the likelihood of this being the Best Practicable Option for the contaminants;
- c) The need to provide for a high standard of pre-discharge treatment for Scheduled waterbodies and where water quality limits for a waterbody have been exceeded or are likely to be exceeded, or water quality objectives are not met;
- d) The actual or potential impact on any values of scheduled waterbodies;
- e) The assimilative capacity and an allowance for reasonable mixing in the waterbody;
- f) The need to safeguard the life-supporting capacity of the waterbody;
- g) The potential for bio-accumulative or synergistic effects;
- h) The actual or potential risk to human and animal health from the discharge;
- i) The measures to reduce the quantity of contaminants to be discharged;
- j) The mauri of the receiving waterbody and any other values placed on the site by tangata whenua;
- k) The need to avoid exacerbation of flooding risk;
- l) The need to avoid erosion of the banks or bed or land instability at or downstream of the discharge point

Comment: The previously granted consent [DW-2014-106195-00] assessed the effects associated with discharging directly to the Awapuni Drain. This application for variation does not change the discharges quality or quantity, therefore it is considered that application for variation is consistent with the relevant policies in C6.2.2.

Industrial Zone Objectives and Policies

DD3.3.4 Amenity Objectives

3. Maintenance and, where possible, enhancement of amenity values and environmental quality within industrial zones

DD3.4.1 Compatibility Policies

1. To ensure that the adverse effects of industrial land use on the soil and water resources of the district are avoided, remedied or mitigated.

DD3.4.2 Natural Heritage Policies

2. To ensure that industries do not create, either alone or in combination with other activities, adverse effects which will reduce the quality of the natural environment.

Comment: The application for variation does not change the discharge, instead how the discharge is monitored to reflect the tidal nature of the drain and the reporting timeframes from laboratories. As such, does not contravene the relevant objectives and policies in the Industrial Zone.

Overall it is considered that the proposal is consistent with the relevant objectives and policies of the Tairāwhiti Plan.

8.0 SECTION 107: Matters relevant to certain applications – discharge permits

8.1 Section 107 requires that:

- 1) *Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing—*
 - (a) *the discharge of a contaminant or water into water; or*
 - (b) *a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or*
 - (ba) *the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—*
if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:
 - (c) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;*
 - (d) *any conspicuous change in the colour or visual clarity;*
 - (e) *any emission of objectionable odour;*
 - (f) *the rendering of fresh water unsuitable for consumption by farm animals;*

- (g) any significant adverse effects on aquatic life.

The proposed change of conditions will not result in contaminants entering water that will result in the listed effects. Section 107 therefore does not prohibit the discharge consent being approved.

9.0 PART 2 MATTERS

Section 5 describes the purpose of the Act:

5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in 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 any adverse effects of activities on the environment.*

Section 6 describes matters of national importance to be recognised and provided for. This variation does not contravene any of these matters.

Section 7 describes other matters that are relevant. In relation to this proposal these matters include:

- (b) *the efficient use and development of natural and physical resources;*
- (f) *Maintenance and enhancement of the quality of the environment;*

Section 8 requires that the principles of the Treaty of Waitangi be taken into account.

Having regard to the assessment against relevant objectives and policies of the Tairāwhiti Plan in this report, it is concluded that the proposal is also consistent with the principles (Section 6 – 8) of the Act. Overall, the application is considered to meet the relevant provisions of Part 2 of the Act as the proposal achieves the purpose (Section 5) of the Act, being sustainable management of natural and physical resources.

10.0 RECOMMENDATION

The above assessment has concluded that any actual and potential effects of the proposal are acceptable, and the proposal is consistent with the relevant objectives and policies of the Tairāwhiti Resource Management Plan. The proposed activity meets the purpose and principles of Part 2 of the Act. Therefore, subject to the conditions listed within the decision to be served under section 113 of the Act, resource consent for the proposal can be **granted**.

Reporting Planner



Connie Mills
Consents Planner

Date: 16 October 2019

Approved By:



Jo Noble
Strategic Planning Manager

Date: 17 October 2019

Resource Consent

DECISION ON APPLICATION DW-2019-106195-01/WI-2019-106213-01

Pursuant to Sections 34A(1), 104, 127 and 108 of the Resource Management Act 1991, the Gisborne District Council, under delegated authority, grants Consent for a discretionary activity to:

Activity:	Change condition 15, 17, 18, 19, 24 and 25 to discharge permit DW-201-106195-00 and water permit WI-2014-106213-00
Applicant:	Eastland Port Limited
Location Address:	53 Dunstan Road, Matawhero
Legal Description:	Part Lot 3 DP 6770 contained in Record of Title GS4D/60 and Lot 4 DP6770 contained in Record of Title GS4D/61

The changes made to conditions are listed in Schedule 1.

A full list of revised conditions is included in the attached Schedule 2.

The reasons for this decision are detailed in the attached Schedule 3.



Under Delegated Authority

Date: 17 October 2019

Conditions of Consent

Resource Consent No: DW-2019-106195-01/WI-2019-106213-01

New wording is shown as **bold and underlined** and deleted wording is shown as ~~strike through~~.

GENERAL CONDITIONS:

- All activities shall be in accordance with the submitted application, including the management plan, the accompanying plans as submitted at the hearing and the construction plans prepared by Opus Gisborne Office 22/01/2014 Drawing No. 3/1204/7/5314 **and as amended by application number DW-2019-106195-01/WI-2019-106213-01 received by Council on 22/03/2019 and further amended by an email received from Oliver Bone at 4Sight on 9 October 2019** and any subsequent amendments to those plans approved by the consent authority except to the extent that these are required to be modified to comply with the conditions of this permit.
- A sample shall be taken at the stormwater retention ponds culvert outlets prior to the discharge into the Awapuni Drain tributary. A second sample shall be taken in the Awapuni Drain 10 metres downstream of the confluence with the tributary drain (the mixing zone boundary) and surface water compliance point). A third sample shall be taken 10 metres upstream of the confluence of the tributary in the Awapuni Drain.

Sampling shall be undertaken and completed during the period beginning two hours after high tide and ending one hour after low tide. In addition, the direction of current flow in the drain must be established prior to each sampling occasion and the current must be flowing in a downstream direction during the entire sampling period.

Advice Note:

~~The receiving environment sampling after reasonable mixing (i.e. 10m downstream of the confluence drain) shall be carried out to obtain a fully representative sample of combined waters.~~

It is acknowledged that the direction of current flow in the drain can change with tidal state and other influences.

- The samples shall be taken at the three sites specified in Condition 15 and be analysed for the following parameters for compliance with the limits at the 10m downstream surface water compliance point:

Parameter	Limit (10m below confluence) ¹	Units
pH	6.5 - 8.5	-LOG(H ⁺)
Suspended Solids	100mg/l above background site	g/m ³
BOD	20	g/m ³
Total Petroleum Hydrocarbons	15	g/m ³

Total Tannins	*	g/m3
Total Nitrogen	0.4	g/m3
DO	Not less than 80%	Total saturation
Conductivity	0.3	mS/cm
Total Resin Acids	0.06	g/m3

*indicator test only

1 Limits are those specified, or the value recorded at the background site if it exceeds the limit specified above.

18. Sample analysis results of the parameters prescribed in Condition 17 shall be provided to the Council ~~no later than 21 working days after the sample collection has occurred~~ **within 5 working days of the consent holder receiving the results from the testing laboratory.**

19. If a sampling result outlined in Condition 17 shows a parameter limit is exceeded at the receiving environment compliance sampling point, the Council shall be ~~immediately~~ notified of that exceedance; **in writing** and **provided with** the results of the water sampling ~~shall be provided forwarded in writing to the Council within 24 hours,~~ **2 working days of the consent holder receiving the results from the testing laboratory.** A further sample shall be taken for the failed test parameter at the next available time that there is sufficient runoff to enable sampling to occur unless otherwise directed by the Council.

The Consent Holder shall also:

- (a) Immediately inspect the cargo storage yard, stormwater retention ponds and culverts for any signs that may identify possible causes of non-compliance,
- (b) If the seconds ample results also exceed a parameter limit, then carry out another sampling and analysis for that parameter at the next available discharge event.
- (c) Re-inspect the cargo storage yard, stormwater retention ponds and culverts immediately for any signs of the possible cause of the contamination.

The Consent Holder shall also liaise with the Council and shall

- i. Identify and provide the extent of the non-compliance;
- ii. Identify and provide the inferred cause of the non-compliance;
- iii. Develop proposals for ongoing monitoring;
- iv. Develop proposals to rectify the non-compliance;
- v. Implement any necessary modifications to the treatment system or other remedial action required by the Council within agreed timeframes.

Advice note:

The above actions do not necessarily prevent the Council from pursuing further legal options.

24. Sample analysis results of the parameters outlined in Condition 23 shall be provided to the Council ~~no later than 21 working days after the sample collection has occurred~~ **within 5 working days of the Consent Holder receiving the results from the testing laboratory.**

25. If a sampling result outlined in Condition 23 shows a parameter limit is exceeded at the receiving environment compliance sampling point the Council shall be ~~immediately~~ notified of the ground water parameter exceedance **in writing** and the results of the water sampling shall be **provided** ~~forwarded to the Council within 24 hours,~~ **2 working days of the consent holder receiving the results from the testing laboratory**. A further sample shall be taken for the failed test parameter at the next available time that there is sufficient discharge from the sump to enable sampling to occur unless otherwise directed by the Council.

This condition shall not apply if the PH or Total Petroleum Hydrocarbon results at the outlet sump do not exceed the trigger value at the background site.

The Consent Holder shall also:

- a. Immediately inspect the cargo storage yard, stormwater retention ponds, swales, and culverts for any signs that may identify possible causes of non-compliance.
- b. If the second sample results also exceed a parameter limit then another sample analysis for that parameter shall be carried out at the next available time that there is sufficient discharge from the sump to enable sampling to occur. The cargo storage yard, stormwater retention ponds, swale drains and culverts shall be re-inspected immediately for any signs of the possible cause of the contamination.

The Consent Holder shall also liaise with the Council and shall

- i. Identify and provide the extent of the non-compliance;
- ii. Identify and provide the inferred cause of the non-compliance;
- iii. Develop proposals for ongoing monitoring;
- iv. Develop proposals to rectify the non-compliance;
- v. Implement any necessary modifications to the treatment system or other remedial action required by the Council within agreed timeframes.

Advice Note:

The above actions do not necessarily prevent the Council from pursuing further legal options.

Conditions of Consent

Resource Consent No: DW-2019-106195-01/WI-2019-106213-01

GENERAL CONDITIONS:

1. All activities shall be in accordance with the submitted application, including the management plan, the accompanying plans as submitted at the hearing and the construction plans prepared by Opus Gisborne Office 22/01/2014 Drawing No. 3/1204/7/5314 and as amended by application number DW-2019-106195-01/WI-2019-106213-01 received by Council on 22/03/2019 and further amended by an email received from Oliver Bone at 4Sight on 9 October 2019 and any subsequent amendments to those plans approved by the consent authority except to the extent that these are required to be modified to comply with the conditions of this permit.
2. The conditions of this permit shall be read in conjunction with the conditions of consents LU-2014-106194-00, WI-2014-106213-00 & DW-2014-106195-00 issued by the consent authority pursuant to the Resource Management Act 1991.

Environmental Management Plan

3. Within six months of these consents being granted, the Consent holder shall prepare an updated Environmental Management Plan (EMP) demonstrating how compliance with all conditions of these consents shall be achieved and shall include but not necessarily be limited to the following matters:
 - i. A detailed description of the operation and maintenance of the surface stormwater runoff, treatment and disposal system including 'as built' drawings,
 - ii. A detailed description of log yard practices that will be undertaken to reduce or remove bark debris and sediment that may become suspended within log yard runoff and which may reduce the capacity of the stormwater discharge from the site,
 - iii. Monitoring programmes and measures to ensure compliance with conditions,
 - iv. Contingency plans to deal with both Pollution incidents and Non-compliance with conditions,
 - v. The Environmental Management Plan shall state how the following Chapter 6 General Regional and the Part Operative Gisborne District Council Combined Regional and District Plan 6.6.1 to 6.6.6 Rules will be adhered to.
 - i. No activity shall cause conspicuous change in colour or natural visual clarity of any off site receiving water after reasonable mixing,
 - ii. No vegetation, slash, spoil or other debris shall be directly deposited into a permanently flowing water body, lake, wetland or the sea, or be deposited into a position where it can readily

enter, or be carried into a permanently flowing water body, lake, wetland, or sea. No vegetation with a diameter greater than 100mm, spoil, or other debris shall be left in such a position,

- iii. All land disturbance activities shall include runoff controls around the area of disturbance where necessary to prevent concentration of runoff causing erosion, scour and sediment discharge off-site.
4. The EMP shall be submitted to the Gisborne District Council's Environmental Services Manager (known from here on as the Manager) and amended as necessary until certified by him/her as meeting the conditions of this consent.
5. The certified EMP shall be adhered to at all times.
6. The Consent Holder Shall give notice in writing to the Manager at least one month prior to any cargo other than untreated logs first being stored at the site, to allow an assessment of potential effects to be carried out.
7. The EMP shall be reviewed at the time of the first anniversary of the date of commencement of the consent, and every five years thereafter, provided that the Manager: may request, or the Consent Holder may offer, a review of the plan at any time to deal with any particular issues that may arise in connection with the operation of the activity and which may require an amendment to the management plan. Any revised EMP shall be re-certified in accordance with the process set out in Condition 4 above.

Records

8. The Consent Holder shall keep a record of all monitoring analyses and inspections results undertaken in accordance with the conditions of this consent and shall submit these records to the Council annually and also immediately upon request. The Consent Holder shall immediately notify the consent authority in writing of any non-compliance with any condition of this Consent and shall keep a record of this and the action(s) taken to address the matter of non-compliance. These records shall be submitted to the Council annually and also immediately upon written request.

The Consent Holder shall produce a report annually by the 30 of June each year of the previous calendar year to the satisfaction of the Environmental Services Manager. The report shall include:

- Annual volume of cargo entering and leaving the facility,
- A description of any modifications to the operation of the site,
- Non-compliances with consent conditions and action taken,
- Complaints and action,
- Monitoring inspections and outcomes,
- Water quality monitoring results and an interpretive summary of results and any recommendations.

9. The Consent Holder shall keep a record of all complaints and action taken whether received directly from the complainant or advised by the Council or its agent. The form of the records and the Consent Holder's response shall be to the satisfaction of the Council. These records shall be submitted to the Council annually and also immediately upon written request.

Surface Water Discharges

10. The Consent Holder shall at all times adopt the best practicable option to prevent or minimise any adverse effects of the discharge on any water body beyond the boundaries of the site.
11. Notwithstanding the general responsibility imposed by the conditions of this Consent, if for any reason (accidental or otherwise) other waste or discharges associated with the Consent Holder's operation escape to natural water beyond the boundaries of the site, the Consent Holder shall:
- i. Immediately commence mitigation procedures to limit or prevent remedy or mitigate any adverse effect associated with the fugitive discharge and to avoid any further actual or potential adverse effects to any downstream water body. All such actions shall be logged so that a complete record of actions will be available to the Council upon request,
 - ii. Notify the Council within 24 hours of the escape of the wastes or discharges,
 - iii. Report in writing to the Council within seven days detailing the manner and cause of the escape of the waste or discharge and steps taken to control and prevent its recurrence.

Advice Note:

The above actions do not necessarily prevent the Council from pursuing further legal options.

12. The discharge shall not cause any erosion at or downstream of the discharge point.
13. As soon as practicable after any rainfall events exceeding 25mm in a 24 hour period the Consent Holder shall inspect the stormwater retention ponds and culvert outlets to ascertain if a discharge from the site is occurring. Should a discharge be apparent into the tributary leading to the Awapuni Drain the discharge shall be assessed for all of the following characteristics:
- Production of any conspicuous change in the colour or clarity of the receiving waters after reasonable mixing;
 - Any conspicuous floatable or suspended materials;
 - Scums or foams on receiving waters,
 - Any emission of objectionable odour in the receiving waters; and
 - Should any of these characteristics be detected, the Consent Holder shall:
 - a) Inspect the cargo storage yard, and associated stormwater infrastructure to determine the possible cause; and
 - b) Identify those steps required to rectify those effects; and then

- c) Within 2 working days, liaise with the Council's Water Conservation Section and provide, to its satisfaction, the following information:
- i) The extent of the apparent effects;
 - ii) The inferred cause of the apparent effects;
 - iii) The means the Consent Holder proposes to rectify the situation (including the possible mitigation involving construction and operation of the reed bed on the south-eastern boundary as identified in the rebuttal evidence of Mr Applyby dated 4/08/10;
 - iv) Any additional monitoring requirements;
 - v) Frequency of reporting on rectifying the situation.

The Consent Holder shall implement the agreed rectification measures, and continue to liaise with the Council until all steps in the rectification process have been fully completed to its satisfaction.

Any procedures identified to avoid, remedy or mitigate the effects of any fugitive discharge, or to minimise the potential for any further fugitive discharge, shall be fully implemented and shall remain in force for such time as the actual and potential effects of the discharge are rendered no more than minor.

14. The Consent Holder shall carry out water quality monitoring to check compliance with the parameter limited specified in Condition 17. This monitoring shall be conducted once every three months, but subject to Condition 16 during times of prolonged dry periods. Samples are to be taken when runoff generated from the cargo storage yard is being discharged to the Awapuni Drain.

Advice note:

The frequency of monitoring may be reviewed annually, following receipt by the Council of the Consent Holder's report results of the previous year's monitoring results.

15. A sample shall be taken at the stormwater retention ponds culvert outlets prior to the discharge into the Awapuni Drain tributary. A second sample shall be taken in the Awapuni Drain 10 metres downstream of the confluence with the tributary drain (the mixing zone boundary) and surface water compliance point). A third sample shall be taken 10 metres upstream of the confluence of the tributary in the Awapuni Drain.

Sampling shall be undertaken and completed during the period beginning two hours after high tide and ending one hour after low tide. In addition, the direction of current flow in the drain must be established prior to each sampling occasion, and the current must be flowing in a downstream direction during the entire sampling period.

Advice Note:

It is acknowledged that the direction of current flow in the drain can change with tidal state and other influences.

16. Should environmental conditions prevail where no significant runoff is generated from the cargo storage yard enabling a sample to be taken within the town month period, an additional sample shall be taken during the next sampling period.

17. The samples shall be taken at the three sites specified in Condition 15 and be analysed for the following parameters for compliance with the limits at the 10m downstream surface water compliance point:

Parameter	Limit (10m below confluence) ¹	Units
pH	6.5 - 8.5	-LOG(H ⁺)
Suspended Solids	100mg/l above background site	g/m ³
BOD	20	g/m ³
Total Petroleum Hydrocarbons	15	g/m ³
Total Tannins	*	g/m ³
Total Nitrogen	0.4	g/m ³
DO	Not less than 80%	Total saturation
Conductivity	0.3	mS/cm
Total Resin Acids	0.06	g/m ³

*indicator test only

¹ Limits are those specified, or the value recorded at the background site if it exceeds the limit specified above.

18. Sample analysis results of the parameters prescribed in Condition 17 shall be provided to the Council 5 working days of the consent holder receiving the results from the testing laboratory.

19. If a sampling result outlined in Condition 17 shows a parameter limit is exceeded at the receiving environment compliance sampling point, the Council shall be notified of that exceedance in writing and provided with the results of the water sampling within 2 working days of the consent holder receiving the results from the testing laboratory. A further sample shall be taken for the failed test parameter at the next available time that there is sufficient runoff to enable sampling to occur unless otherwise directed by the Council.

This condition shall not apply if the variable also exceeds the trigger value at the background site by the same or greater value.

The Consent Holder shall also:

- (d) Immediately inspect the cargo storage yard, stormwater retention ponds and culverts for any signs that may identify possible causes of non-compliance,
- (e) If the second sample results also exceed a parameter limit, then carry out another sampling and analysis for that parameter at the next available discharge event.
- (f) Re-inspect the cargo storage yard, stormwater retention ponds and culverts immediately for any signs of the possible cause of the contamination.

The Consent Holder shall also liaise with the Council and shall

- i. Identify and provide the extent of the non-compliance;
- ii. Identify and provide the inferred cause of the non-compliance;
- iii. Develop proposals for ongoing monitoring;
- iv. Develop proposals to rectify the non-compliance;
- v. Implement any necessary modifications to the treatment system or other remedial action required by the Council within agreed timeframes.

Advice note:

The above actions do not necessarily prevent the Council from pursuing further legal options.

20. Notwithstanding the requirements and limits specified in Condition 17 the discharge shall not cause significant detrimental effect on freshwater biological communities and the aquatic life of the receiving waters beyond the mixing zone boundary.

Ground Water and Discharges

21. Prior to the storage of goods on the site two groundwater monitoring bores shall be installed into groundwater, one within the cargo storage yard site at the most practical south-easterly point; and the other at the most practical north-westerly point. The two bore locations shall be marked on a plan and submitted for certification by the Manager: Environment and Planning. The certified plan shall be included in the EMP.
22. Background groundwater quality samples of the sump tile drainage shall be taken on at least 3 separate occasions prior to commencement of any onsite construction. The sampling shall be of those parameters detailed in Condition 23.
23. Groundwater (background) samples shall be taken from each monitoring bore within the site and also at the sump tile drainage outlet from beneath the site twice annually: once during the month of February and the other during the month of August. Compliance with parameter limits shall be measured in the receiving groundwater after reasonable mixing (deemed to be at the sump tile drainage outlet, as measured against the limits in the following table). These samples shall be analysed for the parameters as follows:

Groundwater Parameter	Limit (as measured at sump tile drainage outlet)	Units
pH	6.5 – 8.5	-log(H ⁺)
Conductivity	0.3 above background	Umhos/cm
Total Petroleum Hydrocarbons	15	g/m ³
Total Nitrogen	0.6 above background	g/m ³
Total Resin Acids	0.6 above background	g/m ³

24. Sample analysis results of the parameters outlined in Condition 23 shall be provided to the Council within 5 working days of the Consent Holder receiving the results from the testing laboratory.
25. If a sampling result outlined in Condition 23 shows a parameter limit is exceeded at the receiving environment compliance sampling point, the Council shall be notified of the ground water parameter exceedance in writing and the results of the water sampling shall be provided the Council within 2 working days of the consent holder receiving the results from the testing laboratory. A further sample shall be taken for the failed test parameter at the next available time that there is sufficient discharge from the sump to enable sampling to occur unless otherwise directed by the Council.

This condition shall not apply if the variable also exceeds the trigger value at the background site by the same or greater value.

The Consent Holder shall also:

- a) Immediately inspect the cargo storage yard, stormwater retention ponds, swales, and culverts for any signs that may identify possible causes of non-compliance.
- b) If the second sample results also exceed a parameter limit then another sample analysis for that parameter shall be carried out at the next available time that there is sufficient discharge from the sump to enable sampling to occur. The cargo storage yard, stormwater retention ponds, swale drains and culverts shall be re-inspected immediately for any signs of the possible cause of the contamination.

The Consent Holder shall also liaise with the Council and shall

- i. Identify and provide the extent of the non-compliance;
- ii. Identify and provide the inferred cause of the non-compliance;
- iii. Develop proposals for ongoing monitoring;
- iv. Develop proposals to rectify the non-compliance;
- v. Implement any necessary modifications to the treatment system or other remedial action required by the Council within agreed timeframes.

Advice Note:

The above actions do not necessarily prevent the Council from pursuing further legal options.

26. Notwithstanding the requirements and limits specified in Condition 23 there shall be no significant adverse effects on the receiving groundwater environment as a result of the exercising of this Consent that would result in non-compliance with the provisions of s15B(1)(b) of the Act.

Sampling and analyses

27. Sampling analysis shall be carried out by an IANZ (registered laboratory) and procedures shall be in accordance with Standard Methods for the examination of water and wastewater prepared and published jointly by American Public Health Association, American Water Works Association, Water Pollution Control Federation (Twentieth edition 1998 supplement or newer edition).

Site Management

28. The Consent Holder shall contact the Council's Water Conservation Section at least 14 working days prior to the intended first exercise of this consent. Where construction work is to be undertaken, having been discounted for more than seven consecutive working days, the Council shall be re-notified.
29. The existing drainage easements within Lot 4 DP 6770 serving Lot 2 DP 7967 and Lot 2 DP 6770 shall be maintained. Construction and operational activities shall be undertaken at all times to maintain the effectiveness of the tile drainage system. Damage (if any) or modification to the drainage system shall be repaired or reinstated

to an appropriate standard in consultation and agreement with the owners of the dominant tenements.

30. The proposed cargo storage yard, stormwater retention ponds and culver outlets shall be designed and managed to withstand the actual and potential effects of flooding up to at least a 100 year rainfall event.
31. Should the Council's Emergency Management or Rivers Control and Land Drainage Section provide sufficient warning of a significant rainfall event with potential to result in loose logs being carried offsite by floodwaters, all loose logs shall be secured onsite to minimise the potential for this.
32. Subsequent to significant rainfall events the facilities infrastructure including the stormwater retention ponds, yard drainage and culverts shall be inspected and reinstated as necessary to achieve the same protective levels and dimensions as were in place prior to the event.
33. The Consent is granted by the Council subject to its servants and agents being permitted access to the relevant parts of the site at all times for the purpose of carrying out inspections, surveys, investigations, tests measurements or taking samples.
34. The Consent Holder can be called upon at any time by duly authorised officers of the Council to produce this consent.
35. The Consent Holder shall pay to the Council any administration, inspection, supervision, enforcement or monitoring charges fixed in accordance with Section 36(1) of the Resource Management Act 1991, payable in respect of the Consent.

Review of Conditions

36. The Council may serve notice on the Consent Holder pursuant to section 128 Resource Management Act 1991 of its intention to review the conditions of the consent, giving notice one month after the commencement of the activity and, during the construction works only, at monthly intervals; and also within one month after the first anniversary of the commencement of this consent and thereafter within one month after each subsequent anniversary for the following purposes:
 - i. To review the effectiveness of the conditions of this resource consent in avoiding, remedying or mitigating any adverse effects on the environment from the consent holder's activity and, if considered appropriate by the Council, to deal with such effects by way of further or amended conditions;
 - ii. To review the appropriateness of the conditions in light of changes to relevant national standards, regulations and guidelines, and the Council's relevant regional and district level plans;
 - iii. To amend the purposes under which future reviews may take place;
 - iv. To impose additional, or modify existing, conditions of this consent relating, but not limited to the matters specified hereunder if necessary to deal with any adverse effects on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later date:

- a) Restriction or diversion of the passage of floodwaters;
- b) The endangering of lives or property in the event of flooding.

Terms of Consent

The consents shall expire as follows:

Consents

WP-2010-104234-00 and WP-2010-104292-00: 35 years from the date of commencement of the consents;

Consent

DW-2010-104235-00: 15 years from the date of commencement of the consent.

Advice Notes:

1. *The Consent Holder is advised that this resource consent does not in itself give any authority to enter or carry out any work on private land nor does it imply any exclusive right to operate over the area allotted to the holder. It also does not excuse the holder from obtaining all other legal and statute requirement for instance the Health and Safety Act.*
2. *For further information about the Council's charging policy the consent holder is refer to the Council's current Manual of Fees and Charges-Environment and Planning.*
3. *Should any archaeological deposits be identified during development the contractor/ occupier should avoid effects to the deposits and contact the Historic Places Trust, Department of Conservation or local Rūnanga immediately. Under Section 99 of the Historic Places Act 1993 it is an offence to destroy, damage or modify an archaeological site (recorded or unrecorded) without authority from the Trust and a fine of up to \$100,000 may be imposed upon any offender.*

Schedule 2

Reasons for Decision

Resource Consent No: DW-2019-106195-01/WI-2019-106213-01

1. The actual and potential effects created by the proposal are considered acceptable because the quality and quantity of the discharge is not changing from DW-2010-104235-00.
2. The proposal is consistent with the objectives and policies of the Tairāwhiti Resource Management Plan.
3. Overall the proposal meets the purpose (Section 5) and principles (Sections 6-8) of the Resource Management Act 1991.