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23 September 2024

Attention: Colin Hopkins

Dear Colin

BUN60425801 23A and 23-27 Brigham Creek Road - Section 92 Response – Outstanding Matters

Thankyou for the opportunity to discuss the Whenuapai Wastewater Scheme Package 1 Regional Resource Consent Application (BUN60425801) lodged by Watercare Services Limited for works in Whenuapai, Auckland. This letter provides an update on the s92 process and provides a response to what is understood to be the outstanding matters.

The following attachments have been provided to support this letter:

- **Attachment 1:** Section 92 response to further information request for consent application BUN60425801 dated 27 February 2024.
- **Attachment 2:** Council response to Watercare’s s92 letter, dated 11 April 2024.
- **Attachment 3:** Section 92 response dated 27 June 2024.
- **Attachment 4:** Email to Hailey Kim dated 5 July 2024 (including letter attachment and revised Wetland Monitoring and Reinstatement Plan).
- **Attachment 5:** Prior email correspondence with Council regarding the functional need for the construction footprint to be within the wetland.

1.1 Background

Watercare submitted a resource consent application for the regional consents in November 2023. Resource consent was sought for a **Discretionary Activity** under the Auckland Unitary Plan: Operative in Part (AUP:OP) and National Environmental Standards : Freshwater (NES:F). This was revised in the S92 response in June 2024 following confirmation that Oyster would complete the Sinton Stream culvert and Rising Main works. In summary resource consent is sought for the following:

- Works within the bed of a wetland not otherwise provided for (AUP:OP Rule E3.4.1(A1)) (**Discretionary Activity**), for installation of a new pipelines and a pump station within the beds of two wetlands, and associated land disturbance and vegetation removal.
- Dewatering of groundwater not complying with standards (AUP:OP Rule E7.4.1(A20)) (**Restricted Discretionary Activity**), for dewatering which occurs for greater than 30 days during construction.
- Diversion of groundwater caused by an excavation that does not meet permitted activity standards (AUP:OP Rule E7.4.1(A27)) (**Restricted Discretionary Activity**), for temporary sheet piling around the pump station site and stream diversion which is in place for greater than 30 days, which divert groundwater over a length of greater than 20 m, at a depth greater than 2 m below groundwater levels.



- Vegetation alteration and removal from the riparian area (AUP:OP Rule E26.3.3.1(A77)) (**Restricted Discretionary Activity**). Up to 47 protected trees will be removed from the riparian area, and approximately 47 protected trees in the riparian area will have root zones infringed. Approximately 110 m² of protected vegetation will be removed from the riparian area.
- Earthworks which exceed 10,000 m², including over 2,500 m² in the Sediment Protection Area and on land with a slope exceeding 10 per cent (AUP:OP Rule (E26.5.3.1 (A107)) (**Restricted Discretionary Activity**).
- Construction of specified infrastructure in proximity to a wetland (NES:F Regulation 45 (1, 2, 4, and 5)) (**Discretionary Activity**), for vegetation clearance, earthworks, and taking, damming, diversion and discharge of water within two natural wetlands for the purpose of constructing specified infrastructure.

A s92 request was received in relation to the application (dated 22 January 2024) (refer **Attachment 2**). A response to the S92 requests was sent by Watercare to Council (dated 27 February 2024, 27 June 2024 and 5 July 2025) (refer **Attachment 1**, **Attachment 3** and **Attachment 4**).

Most of the matters are understood to have been resolved (as shown in **Attachment 2**).

For clarity in relation to Question 3 and 4 of the S92 request a meeting was held on 2 July 2024, where it was agreed that the offset site at 32 Mamari Road was not required. As set out in **Attachment 4**, this has been removed from the application, and the Wetland Monitoring and Reinstatement Plan revised to reflect this agreed position.

1.2 Outstanding Section 92 Matters

It is understood that the following questions from Council's s92 request dated 22 January 2024 remain outstanding:

Ecology

5. *Please provide further justifications/explanations on why works within and near the Wetland C and D are unavoidable. Please include pipe route, including consideration of rearranging structures within the WSL pump station land in this assessment.*

Stormwater

3. *The pump station storage tanks are indicated to be within the footprint of Wetland D. Installation of these tanks will require works within the footprint of the wetland and reinstatement. Please provide further justification of this location and configuration of the tanks as the best practicable option within the site, could these tanks be installed in a North-South configuration rather than East-West.*

By way of response to these questions, please see below for a statutory assessment against the policy direction regarding works in wetlands, which sets out our interpretation of functional need in relation to the application.

I also note that further information has been requested in relation to mana whenua engagement (item 21 of the s92 request). However, I understand that Watercare is working with council separately to reach a resolution.

1.2.1 National Policy Statement for Freshwater Management (NPS:FM)

Policy direction

The NPS-FM provides overall direction of Te Mana o te Wai, which refers to the fundamental importance of water, and recognises that protecting the health of freshwater protects the health and well-being of the environment. In line with Te Mana o te Wai, Objective 1 of the NPS-FM states that natural and physical resources are required to be managed in a way that prioritises the health of water bodies first (1(a)), the health needs of people second (1(b)) and the ability of people and communities to provide for their well-being third (1(c)). Policy 6 requires that there is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

Statutory Assessment

The application is consistent with the policy direction of the NPS-FM, as there will be no permanent loss of extent and values of the wetland. The disturbed section of the wetland will be restored once works are complete to result in no loss of extent, and a net gain in value over the longer term.

1.2.2 Auckland Regional Policy Statement – Chapter B of the Auckland Unitary Plan: Operative in Part

Policy direction

Chapter B7.3.1 sets out the objectives in relation to freshwater, with a focus on enhancing degraded freshwater systems, minimising the loss of freshwater systems and avoiding, remedy or mitigating any adverse effects of changes in land use on freshwater systems.

Chapter B7.3.2 then sets out the policies in relation to freshwater, recognising that there is a need to integrate land use management and freshwater systems.

Statutory Assessment

The Project has sought to avoid direct effects on streams and wetlands (as set out in the Alternatives Assessment). Where it has not been possible to avoid the wetland(s), remedy and mitigate any potential effect, such that there is expected to be a positive effect once Wetland C is reinstated.

The Project has had appropriate regard to the matters set out in B7.3.2 (1) – (6) in the following way:

- a) The proposed wastewater infrastructure was identified as being required as early as 2016 by Whenuapai Structure Plan in relation to anticipated growth and intensification, thus provide for areas of new growth or intensification (B7.3.2(1)(a)).
- b) The proposed construction management measures as set out in the AEE and the proposed conditions will minimise any adverse effects of runoff from construction on the adjacent freshwater systems. In addition by providing increased capacity of the wastewater system, reduce potential for overflows (B7.3.2(1)(b)).
- c) The Project has purposely located the Pump Station to avoid development where it will significantly increase adverse effects on Wetland C, but where it is unavoidable to locate the Gravity Main, will adequately mitigate adverse effects through reinstatement and planting (B7.3.2(1)(c)).
- d) Whilst it has not been possible to avoid the location of the Gravity Main within Wetland C, this will not result in permanent loss of modification ((B7.3.2(1)(4)) as the wetland, which has been identified as of low quality, can be reinstated and enhanced (B7.3.2(1)(2) and (3)).
- e) The location of the Project is necessary to provide infrastructure for the health and safety of the Whenuapai community (B7.3.2(1)((4)(a)), has no practicable alternative ((B7.3.2(1)(4(b)) and, as set

out in the AEE, mitigation measures will be implemented to address adverse effects on the wetland ((B7.3.2(4)(c)).

- f) In addition, as set out in Appendix Q of the AEE, there is both an operational and a functional need for the Pump Station and Gravity Main to be located within and adjacent to Wetland C ((B7.3.2(1)(5)(c)).

In summary, it is not possible to avoid the wetland given the functional and operational need for the location of both the Pump Station and the Gravity Main to be located. However, whilst the adverse effects of the works on the wetlands cannot be avoided, they will be minimised through installing a sheet piled cut-off wall along the southern boundary of Wetland C during construction to minimise potential groundwater inflow from the wetland into the excavation area, and then remediated through reinstatement and planting of the disturbed area of wetland once the works are complete. As set out in the AEE, this is anticipated to result in a positive environmental effect, given the opportunity to enhance the existing degraded wetland through replanting and reinstatement.

1.2.3 Auckland Unitary Plan: Operative in Part – Chapter B3. Lakes rivers streams and wetlands

Policy direction

The policy most relevant to the consideration of the effects of the activity on wetlands is Policy 17, which is set out below.

(17)The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:

- a) the loss of extent or values arises from any of the following:
...
 - v. the construction or maintenance of wetland utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)...
- b) the regional council is satisfied that:
 - i. the activity is necessary for the purpose of the construction or upgrade of specified infrastructure; and
 - ii. the specified infrastructure will provide significant national or regional benefits; and
 - iii. there is a functional need for the specified infrastructure in that location; and
 - iv. the effects of the activity are managed through applying the effects management hierarchy;

Statutory Assessment

The application is consistent with the first clause of policy, as there is no permanent loss of extent and values of the wetland. The disturbed section of the wetland will be restored once works are complete to result in no loss of extent, and a net gain in value over the longer term. Given that the application is consistent with the first clause, further recourse to the exceptions set out in subclauses a) and b) is not required.

1.2.4 National Environmental Standards for Freshwater (NES:F)

Policy direction

The works require vegetation removal and earthworks within, and within 10m of, Wetland C. Consent is therefore sought under Regulation 45(1), (2), (4) and (5) of the NES:F.

Under Regulation 45(6) of the NES:F, A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—

- a) satisfied itself that the specified infrastructure will provide significant national or regional benefits; and
- b) satisfied itself that there is a functional need for the specified infrastructure in that location; and
- c) applied the effects management hierarchy.

Statutory assessment

An assessment against the matters of which Council must be satisfied is set out below.

a) satisfied itself that the specified infrastructure will provide significant national or regional benefits

As set out in the AEE, the gravity main, pump station, rising main and break pressure chamber are key components of the Whenuapai wastewater infrastructure network, which will service up to 10,200 dwellings to 2041, providing for future housing provisions to enable Auckland to continue to grow. The scheme is required to accommodate the wastewater needs of anticipated and future growth.

Enabling urban development opportunities has positive community and economic benefits and will contribute towards alleviating the existing housing shortage in Auckland.

The project will therefore have significant regional benefits associated with providing wastewater servicing capacity for the Whenuapai catchment and unlocking land for development.

b) satisfied itself that there is a functional need for the specified infrastructure in that location;

Watercare met with Brogan McQuoid, Team Leader of North West Unit Resource Consents, on 9 August 2023 to discuss that application. At that meeting, Council agreed in principal that the functional need for the wastewater pump station (and therefore the wastewater lines) had been demonstrated (refer to **Attachment 5**). Watercare reminded Council of the agreement on functional need on 27 February 2024 ((refer to Watercare's response to s92 question *Ecology #3*, in the s92 response letter dated 27 February 2024 and provided in **Attachment 1**). On 11 April 2024 Council responded to this letter to advise that specific aspects of question *Ecology #3* were not resolved. However, the agreement regarding the demonstration of functional need was not queried. It is therefore understood that Council has accepted that functional need had been demonstrated.

c) applied the effects management hierarchy.

The effects management hierarchy means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that adverse effects are avoided where practicable; where adverse effects cannot be avoided, they are required to be minimised where practicable; and where adverse effects cannot be minimised, they are remedied where practicable, and so on.

As set out in the application, there is no permanent loss of extent and values of the wetland. The disturbed section of the wetland will be restored once works are complete to result in no loss of extent, and a net gain in value over the longer term. Therefore, the mitigation and remediation has brought the level of effect down such that material harm is avoided. Council can therefore be satisfied that the effects management hierarchy has been applied.

Notwithstanding that the effects management hierarchy requirements have been met, Watercare nevertheless provided Council with an explanation as to why trenchless methods were inappropriate for installing the gravity pipeline through Wetland C on 27 February 2024 (refer to Watercare’s response to s92 question *Stormwater #1*, in the s92 response letter dated 27 February 2024 and provided in **Attachment 1**). On 11 April 2024 in response to this letter Council confirmed that the matter had been addressed and resolved (**Attachment 2**).

Yours sincerely



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on behalf of

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