

## WAIKANAE RIVER RESOURCE CONSENT FOR RIVER MANAGEMENT ACTIVITIES

### PURPOSE OF CONSENT

For Wellington Regional Council to carry out river management activities as described in the Individual Activity Good Practice Methods in the Code of Practice to the design standard within the consent area including:

- (a) works in, on, under and over river beds (landuse consent XXX);
- (b) works outside river beds (landuse consent for soil disturbance XXX);
- (c) diverting water as associated with the above activities (water permit XXX);
- (d) discharging silt and sediment to rivers, and discharging stormwater and sediment to surface water, associated with the above activities (discharge permit xxx); and
- (e) all associated structures, activities in the coastal marine area, occupation of the common marine and coastal area, disturbance of, or damage to, the foreshore and seabed (coastal permit xxx).

**Advice Note 1:** The "**Code**" means Wellington Regional Council's Code of Practice for river management activities, as of the date of this consent, or as amended from time to time. The Code also covers activities for which resource consent is not required.

**Advice Note 2:** In the context of these consents, "**design standard**" is the current cumec standard of protection, which is currently managed to a 1 in 100 year standard.

**Advice Note 3:** In the context of these consents, "**river management activities**" includes any activity undertaken for the purposes of flood protection, erosion control or hazard management to achieve the design standard, and any works undertaken to remedy or mitigate the effects of such activities, but excludes large scale capital works.

### Term of Consents

- (f) The term of these consents is 35 years from the date of their commencement.

### Consent Area

- (g) These general conditions apply to all activities within the areas shown as the 'consent area' in Maps 1 to 11 attached as Appendix A to these conditions.

### GENERAL CONDITIONS

#### 1. Operational Management Plans

**Advice Note 4:** Operational Management Plans are a key tool for how river management operators plan and execute their work, reflecting the direction in Ōtaki River Floodplain Management Plan. The Plans

*provide for the management of work on a reach by reach basis, provide for identifying and managing reach specific values, and enable, to the extent practicable, the river to follow an active meander pattern.*

**Advice Note 5:** *In the context of these consents, "bed level envelope" means the minimum and maximum bed levels for each reach of Ōtaki River, as set out in Appendix B of these conditions or as otherwise provided by an Operational Management Plan, certified in accordance with condition 1.1 below.*

- 1.1 No later than 12 months after the grant of this consent, the consent holder must prepare an Operational Management Plan which applies to each reach of Ōtaki River for certification by the Manager, Environmental Regulation.
- 1.2 In relation to each reach of Ōtaki River, the Operational Management Plan must:
  - (a) describe the management objectives;
  - (b) describe the channel type and key morphological characteristics;
  - (c) contain the design channel and buffer zone as appropriate;
  - (d) describe the bed level envelope;
  - (e) describe any areas with significant indigenous ecosystems or significant indigenous biodiversity values;
  - (f) describe any recreational values and areas of safety concern;
  - (g) identify and describe the cultural values of kaitiaki sites, as set out by the Māori Consultative Group in accordance with condition 7.2(d);
  - (h) describe the range of management methods which may be implemented, taking into account:
    - (i) effects on ecological and other significant environmental values; and
    - (ii) any recommendations from the Māori Consultative Group about appropriate management methods for kaitiaki sites in accordance with condition 7.2(e).
- 1.3 An Operational Management Plan must be consistent with an approved Ōtaki River Floodplain Management Plan, unless it is identified in the Annual Report that a deviation is necessary to achieve the current design standard.
- 1.4 All river management activities must be carried out so that the relevant reach is managed towards maintaining the values and limits set out in the relevant Operational Management Plan, once it is certified.

## **2. Management in accordance with the Code**

**Advice Note 6:** *The Code guides all river management activities undertaken by the consent holder across the Wellington Region. The following conditions identify the key objectives set out in the General Good*

*Practice Methods and the Individual Activity Good Practice Methods, which provide a comprehensive demonstration of how good practice will be achieved.*

- 2.1 All river management activities must be undertaken in accordance with the General Good Practice Methods and the Individual Activity Good Practice Methods as contained in the Code, as applicable to the chosen method.
- 2.2 In particular, when undertaking river management activities the consent holder must:
- (a) operate and maintain machinery to minimise the potential for accidental discharge of contaminants such as lubricants, hydraulic fluids or fuel to the river environment, in accordance with section 7.3.5 of the Code;
  - (b) operate and maintain machinery to minimise the transfer of organisms and pest plants from catchment to catchment, in accordance with section 7.3.5 of the Code;
  - (c) locate construction material to maintain the flood carrying capacity of the river, potential hazards or a significant reduction in the amenity value of the river environment, in accordance with section 7.3.6 of the Code;
  - (d) minimise sediment discharge to water as far as is practicable, in accordance with section 7.3.7 of the Code;
  - (e) limit the creation of new access points to the river, in accordance with section 7.3.8 of the Code;
  - (f) appropriately manage noise, dust, odour and traffic effects from river management activities, in accordance with section 7.3.9 of the Code;
  - (g) not exclude public access to or along the river corridor or the coastal marine area unless such exclusion is reasonable to protect public health and safety, in accordance with section 7.3.10 of the Code;
  - (h) remove debris from river management structures and repair river management structures, where such debris or state of disrepair poses a risk to public safety, and take other and appropriate measures (such as erecting signage and/or barriers), in accordance with sections 7.4.1 to 7.4.9 of the Code;
  - (i) minimise adverse effects on instream ecology and habitat as far as practicable, in accordance with section 7.3.11 of the Code;
  - (j) where appropriate, seek to integrate native and willow planting on berms, and avoid disturbance of existing areas of high value native vegetation as far as practicable, in accordance with sections 3.3, 7.3.8, 7.3.12 and 7.4.29 of the Code; and
  - (k) follow the protocol established for accidental discovery of artefacts or kōiwi, set out in section 7.3.13 of the Code.

### **3. Site Specific Management**

**Advice Note 7:** *River management activities have the potential for short term adverse effects. The following conditions enable site specific management procedures for significant activities or activities in identified*

*sensitive locations and seasons. Further direction is set out in the Code. An existing SSEMP certified under condition 3.1 may be re-submitted in fulfilment of condition 3.1 to the Manager, Environmental Regulation, if the works are materially the same as what has been previously addressed by the existing SSEMP. For example, in the case of mechanical clearance of bottom rooted plant community in (f) below.*

- 3.1 The consent holder must prepare a Site Specific Environmental Management Plan ("**SSEMP**"), for certification by the Manager, Environmental Regulation. Determination of certification by the Manager, Environmental Regulation shall be provided no later than 20 working days following receipt of the SSEMP, before the consent holder commences any one or more of the following:
- (a) significant works that disturb inanga spawning habitat, being the tidal estuary edge vegetation as shown in Table 13 of the Code, during spawning season between 1 March to 31 May;
  - (b) significant works that disturb large areas (defined in Table 2 of Code) of inanga spawning habitat, being the tidal estuary edge vegetation as shown in Table 13 of the Code, between 1 June and 28 February
  - (c) significant works in the wet channel between 1 September and 31 December (the period of peak native fish migration) for more than 8 days of continuous works at any one work site, or involving more than 800 meters of wetted riverbed length;
  - (d) mechanical clearance of 800 metres or more (measured by lineal stream length) of bottom rooted plant community in low gradient streams; and
  - (e) clearance of 100m<sup>2</sup> or more of riparian vegetation identified in the Operative Natural Resources Plan or by Flood Protection surveys as having significant indigenous biodiversity value.
- 3.2 In condition 3.1, "significant works" means any one or more of the following types of works:
- (a) wet gravel extraction;
  - (b) bed recontouring;
  - (c) ripping in the wet channel;
  - (d) channel diversion cuts; or
  - (e) construction of impermeable structures.
- 3.3 Each SSEMP must demonstrate how the proposed river management activities will be limited to the extent necessary to undertake the activities in a manner that remedies or mitigates adverse effects on the relevant aspects of water quality and aquatic ecology. In particular, the SSEMP must describe:
- (a) the works proposed, including methodology and timing;
  - (b) the reasons why the proposed activities must be undertaken during that period and within that habitat, as applicable, and specific measures to remedy or mitigate effects;
  - (c) the site specific environmental monitoring that will be undertaken in accordance with condition 4;

- (d) requirements of communication with key stakeholders;
- (e) how the design channel and bed levels will be maintained;
- (f) how any reach specific values identified by the Māori Consultative Group have been taken into account; and
- (g) a suitably trained or qualified expert's opinion that appropriate steps will be taken to remedy or mitigate adverse effects or, if not, why an expert opinion was not required.

#### **4. Site Specific (Event) Monitoring**

**Advice Note 8:** *Site specific (event) monitoring provides for the collection of data before and after the activities identified in condition 3.1 above, and informs the on-going understanding and management of short term effects over the term of these consents. Site specific (event) monitoring is in addition to baseline monitoring addressed by condition 5.1 below, which enables a longer-term assessment and the cumulative effects of river management activities to be taken into account. Both measures ensure that prompt and appropriate responses are taken to avoid, remedy or offset effects.*

- 4.1 Where a Site Specific Management Plan is required under Condition 3.1 the consent holder shall undertake site specific environmental monitoring to compare the relevant habitat before and after activities at each work site.
- 4.2 Site specific environmental monitoring may include, as relevant to the works proposed to be undertaken:
  - (a) water quality monitoring (suspended solids, turbidity, total nitrogen, total phosphorous);
  - (b) deposited sediment monitoring (sediment cover and substrate size);
  - (c) habitat mapping along the length of the river affected by the works, compared to comparable unaffected sites;
  - (d) macroinvertebrate re-colonisation;
  - (e) survey of fish populations; and
  - (f) fine scale monitoring of physical chemical and biological indicators in estuarine environments (where applicable).

#### **5. Baseline monitoring and management responses**

**Advice Note 9:** *The following condition ensures that management responses can be taken to avoid, remedy or mitigate the effects of river management activities on key habitat and populations, and is to be read in conjunction with the more specific triggers which are contained in the Code and updated on an ongoing basis.*

- 5.1 Baseline monitoring and management responses must be undertaken in accordance with section 3.4.1 of the Code and with the Environmental Monitoring Plan (see condition 6.1), and under which:
- (a) baseline monitoring must be conducted at the intervals, and accordance with, the methodology set out in the Environmental Monitoring Plan;
  - (b) if the baseline monitoring shows that there has been a statistically significant decline in trout abundance, or decline in the number of pied stilt breeding pairs, or numbers of native fish species in the consent area, or decline in the numbers of pools and riffles, applying the triggers and assessment criteria in Tables 6,7 and 8 of the Code, the following process must be followed:
    - (i) an independent suitably qualified expert must carry out a study and report to the consent holder within 3 months identifying the most likely causes of the decline;
    - (ii) if the most likely cause of decline is identified by the independent suitably qualified expert as river management activities:
      - (1) the report must recommend measures to mitigate or remedy any effects caused by those activities, which may include recommended changes to the Good Practice Guides in the Code as relevant, or applications of the Ecological Enhancement Fund; and
      - (2) the consent holder must implement the recommendation(s) contained in the report or provide reasons why implementation was not practicable or achieved in the Annual Report;
    - (iii) if river management activities are identified by the independent suitably qualified expert as part of a wider number of causes, then the consent holder shall have regard to any recommendations in the report to mitigate or remedy the effect of river management activities on the remaining population(s).

## 6. Environmental Monitoring Plan

**Advice Note 10:** *The Environmental Monitoring Plan sits alongside and supports the Code. It provides a programme of environmental monitoring, involving collection of a range of physical parameters that reflect aspects of river natural character and processes, and which can be used as indicators of the effects of river management activities on selected environmental values.*

- 6.1 Within 20 working days from the commencement of these consents, the consent holder shall provide an Environmental Monitoring Plan for certification by the Manager, Environmental Regulation. The Environmental Monitoring Plan will outline:
- (a) the baseline monitoring parameters;
  - (b) survey methodologies;
  - (c) event monitoring; and
  - (d) procedures and methods for reporting.

## 7. Māori Consultative Group

**Advice Note 11:** *Wellington Regional Council recognises the importance of its relationship with mana whenua for river management activities across the region. The following conditions outline Wellington Regional Council's ongoing commitment to this relationship, while also acknowledging that there are other Council forums which are, or may be established, to address the consent holder's wider obligations.*

- 7.1 Within 6 months of the commencement of this consent, the consent holder must invite no more than one representative of each of the entities to form a Māori Consultative Group:
- (a) Te Runangā o Toa Rangatira Inc; and
  - (b) the Port Nicholson Block Settlement Trust.
- 7.2 The consent holder must invite the Māori Consultative Group to convene once every 12 months. The Group has the following objectives:
- (a) facilitating information flow between the consent holder and tangata whenua regarding river management activities authorised under these consents;
  - (b) identifying any issues of concern that have arisen during the previous year and to discuss appropriate measures to address issues raised;
  - (c) taking into account the results of any Kaitiaki Monitoring received over the preceding 12 month period, identifying potential measures to articulate kaitiakitanga in response to river management works such as native planting and interpretative signage;
  - (d) identifying and describing how river management activities can affect the cultural values of the river, as applicable to the relevant reach, and identifying and describing any other areas or practices of cultural importance within Ōtaki River ("**kaitiaki sites**"), for reflection in the Operational Management Plans;
  - (e) recommending to the consent holder the range of methods which may, or may not be, appropriate for kaitiaki sites, for reflection in the Operational Management Plans;
  - (f) identifying potential options for the allocation of the Ecological Enhancement Fund; and
  - (g) making recommendations for the consent holder to consider (and report on) in its Annual Report in relation to any issues identified in terms of (a)-(f) above.
- 7.3 The consent holder must inform the Manager, Environmental Regulation, of any meeting of the Māori Consultative Group a minimum of 10 working days in advance of that meeting, so that Council representatives can attend if they wish.
- 7.4 The consent holder shall assist the Māori Consultative Group to fulfil its objectives by:
- (a) providing administrative support (such as minute keeping) unless otherwise mutually agreed;
  - (b) arranging an appropriate venue for meetings;;
  - (c) ensuring its senior flood protection management advisor(s) attend the meeting; and

- (d) providing summary information on the Annual Report findings (including appropriate visual presentation and explanations based on the key information in the Annual Report if required).

7.5 Compliance with conditions 7.1 to 7.4 will be achieved if consultation with Te Runanga o Toa Rangatira Inc and the Port Nicholson Settlement Trust is undertaken through a different Wellington Regional Council process.

## 8. Annual Report

**Advice Note 12:** *The reporting process described below enables the effects of the river management activities authorised by these consents to be understood and addressed over time. It commences with the preparation of a draft report by the consent holder, collating the river operator's information on its activities and the results of any environmental monitoring. The draft is then provided to the Independent Review Panel and the Maori Consultative Group.*

*The annual review reporting process, informed by expert input from the Independent Review Panel, Māori Consultative Group recommendations and based on monitoring results enables the consent holder to understand the effects of river management activities and improve its practices over time. The annual reporting process also enables the collation of river operator's standard annual work programme reporting, and for the Manager, Environmental Regulation to be satisfied that the effects of the river management activities authorised by these consents are understood and addressed over time.*

8.1 By 31 August each calendar year the consent holder must provide the Independent Review Panel with a draft Annual Report, which must contain at least the following information:

- (a) comments on compliance with the conditions of consent over the preceding 12 month period;
- (b) assessment as to the adequacy of actions and methods in the Operational Management Plans to achieve their purpose whether or not the actions and methods are in accordance with good practice;
- (c) any changes to the design channel, or changes in mean bed levels to outside the bed level envelope measured over three lineal consecutive cross sections, for Ōtaki River and the management response implemented, if any in response to the change;
- (d) any changes to the sensitive habitat areas identified in Table 3 of the Code;
- (e) any substantial changes to the General Good Practice Methods and the Individual Activity Good Practice Methods in the Code (for example, the introduction of a new method);
- (f) any changes to the baseline monitoring parameters in the Environmental Monitoring Plan (condition 6.1) and/or trigger levels in section 3.4.1 of the Code;
- (g) a work program which outlines the completed work from the previous 12 months, and the work anticipated for the next 12 months;
- (h) reporting on baseline monitoring for the proceeding 12 month period, and any monitoring undertaken as required by an SSEMP;



- (i) any allocation of the Ecological Enhancement Fund including a description of the work undertaken during the preceding 12 month period, and its intended outcomes, and detail of any requests received by the consent holder for additional allocations;
- (j) whether the consent holder accepts or rejects any recommendations made by the Māori Consultative Group, together with reasons;
- (k) the results of any Kaitiaki Monitoring received over the preceding 12 month period, and the consent holder's response(s) to it; and
- (l) any other recommendations that the consent holder considered necessary to achieve the purpose of environmental monitoring, adaptive management and reporting.

8.2 Following receipt of the Recommendations Report from the IRP, (set out in Condition 9 below), the consent holder must finalise the Annual Report and identify how the recommendations in the Recommendations Report have been addressed. If the recommendations have been rejected the consent holder must explain why. The Annual Report, together with the Recommendations Report and the consent holder's responses, must be provided to the Manager, Environmental Regulation by 30 November each calendar year, with copies to the Independent Review Panel and the Māori Consultative Group.

## 9. Independent Review Panel

**Advice Note 13:** *The Independent Review Panel will consist of technical experts to assist, inform and challenge the review the Annual Reporting process and to allow for improvements in practice to be made.*

- 9.1 Within 6 months of the commencement of this consent, the consent holder shall establish an Independent Review Panel to review, on an annual basis, the Annual Report provided in draft to the consent holder under condition 8 of this consent.
- 9.2 The Independent Review Panel must be appointed by the consent holder and will consist of three independent experts who, between them, have relevant expertise in ecology (freshwater and/or terrestrial), tikanga Māori and river geomorphology.
- 9.3 As part of undertaking its review and assessment, the Independent Review Panel must provide an opportunity for the Māori Consultative Group to submit information, or make recommendations to, the Independent Review Panel that relate to the matters it is required to consider, and for members of the Group to meet and speak with the Panel whilst it is preparing its Recommendations Report.
- 9.4 By 31 October each calendar year, the Panel must provide the consent holder with a Recommendations Report (and all associated expert reports) which includes the following matters:
  - (a) the Panel's review of the Annual Report prepared by the consent holder, including whether it agrees or disagrees with the proposals in the Annual Report, together with reasons; and
  - (b) the Panel's view on whether the annual reviews of, and amendments to, each Operational Management Plan, adequately respond to the results of the monitoring undertaken in the preceding year and the appropriateness of the adaption proposed to the objectives, actions and methods of each Operational Management Plan to achieve its purpose; and

- (c) any recommendations as to whether it considers any particular condition(s) should be subject to review in order to address significant unanticipated effects.

9.5 Where the Independent Review Panel does not have expertise in any of the areas it is required to report on it may, with the prior agreement of the consent holder, engage services of an appropriate expert to report on the relevant matter to the Independent Review Panel. Any report from such an expert shall form part of the Recommendations Report provided by the Independent Review Panel as required by these conditions.

9.6 The consent holder shall assist the Panel to fulfil its objectives by:

- (a) providing such administrative support to the Panel as reasonably requested (such as documenting discussions and decisions reached); and
- (b) arranging an appropriate venue for meetings and remunerating attendees for reasonable costs

## **10. Kaitiaki Monitoring**

10.1 Within six months of the granting of this consent, the consent holder must invite Mana Whenua to work with the consent holder to develop and implement a Kaitiaki Monitoring Strategy ("**KMS**").

10.2 If the invite is accepted, the consent holder must consult with Mana Whenua and prepare a KMS. The KMS must include the following, as applicable to Waikanae River:

- (a) identification of tohu (attributes) and methods to monitor them;
- (b) identification of mahinga kai and Maori customary use and methods to monitor them;
- (c) identification of tikanga and how it influences cultural monitoring methods;and
- (d) a reporting structure that enables kaitiaki information to contribute to the consent holder's state of the environment reporting.

10.3 The consent holder shall provide the KMS to the Manager, Environmental Regulation within one year from the grant of consent. The KMS must be reviewed by the consent holder every two years in consultation with Mana Whenua and any updated KMS prepared by the consent holder be provided to the Manager, Environmental Regulation. The consent holder must pay the reasonable costs of Mana Whenua in preparing the KMS and for monitoring undertaken in accordance with it.

## **11. Ecological Enhancement Fund**

11.1 Within 20 working days of the commencement of this consent, the consent holder must allocate a one-off payment of \$150,000 for the establishment of an Ecological Enhancement Fund and must allocate \$50,000 each year to the Fund annually thereafter. The application of the fund will be Wellington region wide, with the purpose of implementing recommendations in the Annual Report to maintain or enhance:

- (a) the space available for the river (for example, by acquiring adjacent land);
- (b) areas of vegetation with high biodiversity values (including the planting of native species) in the river corridor; or

- (c) in-stream values;
- (d) any other area of important in-river or riparian habitat.

## 12. Activity constraints

**Advice Note 14:** *The following activity constraints are to highlight key bottom lines for relevant Part 2 RMA matters. They are to be read in conjunction with the Code, which provides a complete management approach for the various topics listed below.*

*Condition 12.1 ensures that the consent holder's river management activities do not cause a reduction in bed levels below what has been determined to be appropriate. Noting that this may occur naturally anyway.*

### *Managing bed levels*

12.1 The consent holder will not extract gravel from the river bed unless necessary for river management activities, and must not extract gravel below the minimum bed levels of Ōtaki River, as set out in Appendix B or as otherwise provided by an Operational Management Plan, certified in accordance with condition 1.1.

### *Minimisation of disturbance of noise and amenity*

12.2 Unless necessary to urgently achieve the design standard, the consent holder must avoid works:

- (a) in actively flowing channels on Saturdays, Sundays and public holidays during the months of December, January and February; and
- (b) on Sundays or Public Holidays; and
- (c) outside of the followings hours:
  - (i) 7am - 7pm Monday to Friday; and
  - (ii) 8am - 3pm Saturday.

### *Sediment release*

12.3 The release of sediment directly associated with any river bed disturbance activity must not cause the visual clarity of the receiving water to change by more than 20% for more than 8 hours in any 24 hour period, as measured by a black disc at a suitable location approximately 200 m downstream of the works site.

### *Fish Passage*

12.4 All river management activities must be undertaken in a manner that appropriately provides for fish passage. Any fish entrapped by these activities must be relocated upstream into clear water as soon as possible.

12.5 During dewatering, the consent holder must check for any fish that are stranded, or are at risk of being stranded. Any such fish must be immediately placed back into the flowing channel.

## *Lizards*

- 12.6 Conditions 12.9 and 12.10 apply if the consent holder disturbs more than 100m<sup>2</sup> of any one or more of the following habitat types:
- (a) river terrace Manuka or kanuka scrubland;
  - (b) native grassland; or
  - (c) scree or boulder fields.
- 12.7 A suitably qualified and trained person must undertake a survey prior to the works to check for the presence of Ngahere gecko or barking gecko (and any other herpetofauna with a classification of "Threatened" or "At Risk" in accordance with Newman (2013) ("**threatened gecko species**") within the affected site.
- 12.8 If any threatened gecko species are identified then works may not proceed until the consent holder traps and relocates the species to any one of the habitat types listed in condition 12.8 above, which is unaffected by the works.

## **13. Review Condition**

- 13.1 Within 2 months of receipt of the Annual Report, the Manager, Environmental Regulation may serve notice on the consent holder of its intentions to review these conditions for any of the following purposes:
- (a) to review the effectiveness of the conditions in avoiding, remedying or mitigating any significant unanticipated adverse effects on the environment from the consent holder's activities and, if considered appropriate by Wellington Regional Council, to deal with such effects by way of further or amended conditions; or
  - (b) to align the requirements of the conditions with any new floodplain management plan for Ōtaki River or any relevant operative regional plans, district plan or Act of Parliament.