

IN THE MATTER OF the Resource Management Act 1991
AND

IN THE MATTER OF resource consent applications and
Notices of Requirement by the Bay of
Plenty Regional Council to undertake
the proposed Kaituna River Re-
diversion and Ongatoro / Maketū
Estuary Enhancement Project

STATEMENT OF EVIDENCE OF PIM JAN MARIUS DE MONCHY

INTRODUCTION

Qualifications and experience

1. My full name is Pim Jan Marius de Monchy. I am the Manager Kaituna Catchments at the Bay of Plenty Regional Council (Regional Council) and the Project Manager for the proposed Kaituna River Re-diversion and Ongatoro / Maketū Estuary Enhancement Project (Project). I have been involved in the Project since 2012.
2. Prior to becoming the Manager Kaituna Catchments in November 2014, I held the position of Land Management Officer, and then Senior Land Management Officer, at the Regional Council for six years. Before that I worked as Operations Manager at the Maungatautari Ecological Island Trust, as Programme Manager Biodiversity Threats at the Coromandel Field Centre of the Department of Conservation, and as a Ranger in a variety of roles on Kapiti Island, at Mt Cook and Tongariro National Parks, and in the Waikato Conservancy.
3. I have a Bachelor of Resource Studies with an ecology major from Lincoln University and a Diploma in Software Development from Spherion.
4. I am providing this evidence as an officer of the Regional Council and not as an expert witness. However, I note that I have an understanding of the environmental issues as a result of my qualifications and experience working on ecological restoration projects in both the Waikato and Bay of Plenty regions, including the Maungatautari Ecological Island Trust, Coast Care BOP, Moehau Kiwi Sanctuary, northern Coromandel feral goat eradication and

several local biodiversity management plans including Te Tumu Kaituna 7B2 and Papahikahawai.

Scope of Evidence

5. My evidence covers:
 - 5.1 The background to and context of the Project;
 - 5.2 An overview of the Project, including its objectives;
 - 5.3 An outline of the proposed works;
 - 5.4 Benefits of the Project;
 - 5.5 The alternatives to the Project that have been considered;
 - 5.6 Consultation and key issues raised;
 - 5.7 The land requirements for the Project; and
 - 5.8 Response to the section 42A report.
6. I provide comments on the submissions as they relate to the scope of my evidence. I will describe the discussions held with the submitters on the issues they have raised in their submissions. Other witnesses also provide comments on the submissions relevant to their areas of expertise and Project involvement.
7. I have read and am familiar with the section 42A report and the proposed set of consent conditions and will refer to these where relevant to my evidence.
8. As I have been involved with the Project since its inception, I am very familiar with the background and history of the area, the issues involved, and the Project itself. I have carried out a large number of site visits to the area since 2008.

EXECUTIVE SUMMARY

9. Past decisions by central and local government, including the decision to divert the Kaituna River out to sea at Te Tumu and therefore bypass Ongatoro / Maketū Estuary in 1956, benefited farm development but resulted in the degrading of ecological and cultural values in the estuary and lower river.
10. This degradation included substantial infilling of the lower estuary without the river's flushing flows, loss of freshwater wetlands and sea grass beds due to the increased

salinity, reductions in kaimoana and other life due to loss of habitat, lack of connecting water flows, increasing nutrient loads from the land and the accumulation of anoxic sediments from enhanced algal growth.

11. These changes have reduced the estuary's cultural value to the point where tangata whenua have changed their way of life because they cannot rely on it to provide food in the same way as it did two generations ago. The 1956 Kaituna diversion has been described by some tangata whenua as a "worse environmental disaster" than the *Rena* grounding and oil spill.
12. The Kaituna River Re-diversion and Ongatoro/Maketū Estuary Enhancement Project aims:

To significantly increase the volume of water (particularly fresh water) flowing from the Kaituna River into Ongatoro/Maketū Estuary by 2018 in a way that maximises the ecological and cultural benefits (particularly wetlands and kaimoana) while limiting the economic cost and adverse environmental effects to acceptable levels.
13. Implementation of the Project will partially address the ecological degradation by stopping and potentially reversing the process of infilling in the lower estuary; improving the ecological health of the middle and upper estuary; re-establishing water flows and connections in the upper estuary; and creating at least 20 hectares of new wetlands or other estuarine habitats. These improvements, together with increased opportunities for public access to the estuary and river and involvement in restoration, will begin to address the cultural effects of the 1956 diversion of the Kaituna River as well.
14. Given the changes in land use and community since 1956 it is inevitable that the Project will have some effects on the environment. These effects are mostly positive for the environment, but where they are not they will be effectively remedied or mitigated through a range of conditions. In my view the Project represents a sensible compromise solution to a complex resource management problem that has been identified by Maketū people since at least 1979.

BACKGROUND AND CONTEXT

15. Prior to 1900, the lower Kaituna River meandered through an extensive wetland-dominated floodplain and then flowed into Ongatoro / Maketū Estuary before entering the Pacific Ocean at Maketū. This meant that the upper and mid estuary margins were dominated by wetland plants adapted to relatively low salinities. The regular strong flushing flows from the river maintained a relatively deep harbour and supported healthy populations of shellfish and fish for human consumption.

16. Occasionally the Kaituna River would break through the sand dunes at Te Tumu during exceptionally large floods (eg 1907), but the mouth of the river would always migrate back towards the rocky headland of Ōkurei at Maketū over time.
17. The formation of River Boards at Te Tumu and Te Puke in the 1920s led to several decades of works to improve drainage and reduce flood risk in the lower Kaituna catchment. Following major floods in the early 1950s, these works included the diversion of the Kaituna River out to sea at Te Tumu, thus bypassing Ongatoro / Maketū Estuary. The works were co-funded by central government and the River Boards with a ratio of 7:2.
18. Over the two decades following 1956 most of the wetland habitats surrounding the estuary and sea grass beds within the estuary disappeared due to the higher salinities and changed hydrology resulting from the diversion of the Kaituna River, as well as stop-banking and land drainage for farming. Thirteen hectares of the upper estuary were impounded by stop-banks and became almost stagnant, dominated by excessive algal growth and anoxic conditions.
19. Fisheries were also affected by these changes, with whitebait catches reducing from an estimated 2,900 kg / year in the 1930s to approximately 75 kg / year in 1984, and claims of fewer fish species and lower numbers by long time Maketū residents who can recall the state of the estuary prior to 1956. Other resources such as large edible snails and watercress allegedly declined or disappeared.
20. The lower estuary began in-filling with coastal sediment without the river's flushing flows, reducing the extent of sub-tidal channel habitat for pipis. Over time, the in-filling has made navigation into and out of Ongatoro / Maketū Estuary unsuitable for all but small boats, to the point where the Coastguard shifted its operation to the Te Tumu Cut in 2013.
21. The changes above slowly changed the way tangata whenua lived. As shellfish and fish became less abundant people could no longer reliably feed visitors at tangi and other hui, and their own dependence upon and relationship with the estuary started to decline.



Figure 1: Aerial photograph of Te Tumu area in 1939. Note the extensive wetlands in the upper estuary, the sand dune ridge between Kaituna River and the ocean (devoid of vegetation as a result of recent river mouth migration and erosion), and “Ford’s Twin Cuts” constructed by dragline in 1927.



Figure 2: Aerial photograph of Te Tumu area in 1959, three years after completion of Te Tumu Cut. Note recent construction of stop-banking along the current line of Ford Road, and around southern estuarine margin. Wetland areas still largely present.



Figure 3: Aerial photograph of Te Tumu area in 1977. Note significant loss of wetland extent, and additional stop-banking. Northwest of Papahikahawai Island macro-algal growth is visible.



Figure 4: Aerial photograph of Te Tumu area in 2011. Note 1981 river cut, resultant further loss of wetland, and increasing area of macro algae (including the dark patches in southern estuary).

22. In 1979 the “Maketū Action Group” was formed with the aim of returning the Kaituna River to Ongatoro / Maketū Estuary. Lobbying of central and local government agencies began. A petition with 2,600 signatures was presented to Parliament by the late Sir Peter Tapsell MP in 1984.
23. Cabinet directed the Department of Conservation to implement a partial re-diversion as part of a wider estuary restoration strategy in 1988. Following lengthy planning and legal processes, this led to the commissioning of four culverts in 1996 to re-divert 100,000 cubic metres of water per mean tidal cycle, or four percent of the Kaituna River, back into the estuary. The small volume re-diverted was limited by the high concentration of bacteria in the lower Kaituna, and the effect that this would have had on the safety of bathing and shellfish gathering in the estuary. Water flows in the upper estuary were not restored through this process.
24. Since the late 1980s the concentration of bacteria in the lower Kaituna River has declined from a median of 1,000 faecal coliforming units per 100ml to around 201 units in 2008 due largely to changes in dairy farm effluent disposal and stock management methods, and improvements to the discharges from Affco’s abattoir and Te Puke’s sewerage plant. These changes have made it possible to safely increase the volume of water re-diverted from the Kaituna River to Ongatoro / Maketū Estuary.
25. In 2006, local concern at the state of the estuary and lower Kaituna River resulted in the creation of a joint-council committee and a series of consultative meetings, focus groups and discussion. This resulted in the publication of the non-statutory “Kaituna River and Ongatoro / Maketū Estuary Strategy” in 2009. The Strategy was put together by representatives of the Kaituna / Maketū community together with Rotorua District Council, Western Bay of Plenty District Council, Tauranga City Council and Bay of Plenty Regional Council.
26. Key outcomes sought in the Strategy are:
 - Improving Water Quality
 - Restoring Healthy Ecosystems
 - Ensuring Sustainable Resource Use
 - Supporting Kaitiakitanga and Local People’s Stewardship
27. Notable management actions identified in the strategy relevant to this Project were the re-diversion of the Kaituna River back into Ongatoro / Maketū Estuary and the creation of 100 hectares of new wetland.

28. A large amount of time was spent working on and discussing options, both within the Regional Council and among the wider community. The Regional Council commissioned a screening study and voted to develop a “maximum flow, partial re-diversion” option that kept Te Tumu Cut open for flood flows. Funding for the Project was allocated through the Regional Council’s Long Term Plan 2012–2022. Requests to the Minister of Conservation for co-funding were unsuccessful.
29. Several other initiatives also contribute to the efforts of local government and the community to implement elements of the Strategy:
- 29.1 Te Maru o Kaituna River Authority, established as part of the Tapuika Settlement Act, held its inaugural meeting in July 2014 and has been charged with reviewing the Strategy and preparing a new “Kaituna River Document”. The Regional Policy Statement must recognise and provide for the Document’s objectives and policies.
 - 29.2 The Rotorua Te Arawa Lakes Programme seeks to improve the quality of water in the lakes which contribute a large proportion of the Kaituna River’s flow.
 - 29.3 The Regional Council’s Water Programme to implement the recent National Policy Statement on Freshwater Management has prioritised the Kaituna and Rangitāiki catchments for action.
 - 29.4 Regional Council’s draft Long Term Plan 2015-25 provides funding for a number of management actions set out in the Strategy that were previously not funded, including the creation of wetlands, provision of fish passage, more riparian protection, and more restoration of remnant indigenous biodiversity.

PROJECT OVERVIEW

30. Responsibility for the Project was transferred from the Regional Council’s Engineering section to the Environmental Delivery section in 2012. A Project Team was set up including both staff and consultants. Expertise on the team includes planning, engineering, terrestrial, riverine and coastal science, navigation and coastal morphology, riverine and coastal modelling, land management, legal, Māori policy, communications and community engagement advisors, project management and administration.
31. The Kaituna River Re-diversion and Ongatoro/Maketū Estuary Enhancement Project aims:

To significantly increase the volume of water (particularly fresh water) flowing from the Kaituna River into Ongatoro/Maketū Estuary by 2018 in a way that maximises the ecological and cultural benefits (particularly

wetlands and kaimoana) while limiting the economic cost and adverse environmental effects to acceptable levels.

32. The objectives of the Project, and their current status, are given below:

1. To work in an open, transparent and fair way that engages tangata whenua, the local community and other stakeholders and recognises their views and aspirations. [Ongoing].

2. To determine the optimal path, volume and configuration of a Kaituna River re-diversion option that maximises ecological and cultural benefits while limiting economic costs and environmental effects to acceptable levels by modelling, expert advice, published literature and of pre-consent community consultation by February 2014. [Completed March 2014].

3. To determine the optimal location, size, function, cost and restoration potential of at least 20 hectares of new wetlands to be created during the implementation of the re-diversion by February 2014. [Completed March 2014].

4. To lodge applications for any consents, designations or other permissions required to achieve the project goal by June 2014. [Completed July 2014]. *To obtain all consents, designations, permissions and land required to achieve the project goal by October 2015, subject to legal processes.* [In progress, hearing scheduled 4-8 May 2015]. *To begin the staged implementation of consented works by October 2016.* [Future].

5. To complete consented capital works by June 2018, subject to completing consenting and land acquisition processes. [Future].

6. To seek opportunities to achieve the non-funded actions in the Kaituna River and Ongatoro/Maketu Estuary Strategy through other council programmes or partnerships without compromising achievement of objectives 1 to 7, where such opportunities arise. [Regional Council's adoption of an Integrated Catchment Management structure and approach, together with a proposed 65% increase in the level of funding for environmental delivery works in the Kaituna catchment in the draft Long Term Plan 2015-25 represent significant progress towards this objective].

7. To report publicly on progress against all actions in the Kaituna River and Ongatoro/Maketu Estuary Strategy by 31 August each year. [Not

completed since 2010. A 'stocktake report' is currently in preparation and will be presented to Te Maru o Kaituna River Authority on 15 May 2015].

PROPOSED PROJECT WORKS

33. The proposed works associated with the Project involve the construction, operation, and maintenance of channels and culverts, associated establishment of wetlands, provision of recreational opportunities, and all associated activities. Specifically, the works will include:
- 33.1 Adding 21 new culverts to the four existing Ford's Cut culverts to create a larger inlet structure to allow more water from the river into the estuary and prevent return flow. During construction and placement of these culverts Ford Road will need to be closed to the public for a period of two to three months.
 - 33.2 Excavating a new channel (60m wide at its bed level, 1.5m below mean sea level, with sloping sides) from the river 1km upstream of Ford Road to meet the existing channel near Ford's Cut. This will require relocation of the stop-bank to the south. Linking this channel with the Kaituna River will occur at the very end of the construction sequence.
 - 33.3 Blocking the downstream section of Ford's Loop (between Ford's Road and Ford Island) and construction of new moorings. The applicant wishes to retain some flexibility on the final location of the new moorings, associated carparks and ancillary structures (shipping container and storage).
 - 33.4 An improved public boat ramp and car parking area adjacent to Ford's Loop adjacent to the marae known as "Uncle Boy's". The ramp will be upgraded with a shallower gradient and two lanes.
 - 33.5 Widening and deepening of Ford's Cut to the same depth and width as the new channel from the Kaituna River. The extra hydraulic capacity is needed to convey a large volume of water with little gradient.
 - 33.6 Removal of the stop banks around the land north of Ford's Cut and causeways in the upper estuary between Papahikahawai Island and Maketu Spit. This work will re-connect Maketū Wildlife Management Reserve with both Papahikahawai Creek and the main part of the estuary.
 - 33.7 Placement of material as part of erosion protection and ecological enhancement works on and adjacent to the southern edge of Papahikahawai Island.

- 33.8 Reuse of excess material by spreading on land. This will occur both on land where wetlands will be created, and on low-lying parts of the land owned by Kaituna Pastoral Farms Ltd.
- 33.9 Shaping and restoring appropriate wetland ecosystems on low-lying areas of the land north of Ford's Cut.
- 33.10 Services relocation, temporary traffic management and all associated construction activities.
- 33.11 Site establishment activities, including storage of plant, equipment and materials; erosion and sediment control; machinery working and safety areas.

BENEFITS OF THE PROJECT

- 34. The Project is a significant step towards addressing past modifications that have led to the degradation of the ecology and mauri of the river and estuary over time. In summary, the Project will result in a new equilibrium over time, and will have the following positive effects:
 - 34.1 A significant improvement in the ecological health of the estuary, and particularly the upper estuary;
 - 34.2 The flushing of amounts of excessive amount of accumulated algae and improved diversity and abundance of benthic fauna;
 - 34.3 Improved food supply for kaimoana such as cockles;
 - 34.4 An increased likelihood of sea grass re-establishing in the estuary;
 - 34.5 Improved dissolved oxygen levels leading to improvements in the extent of habitat suitable for fish;
 - 34.6 The increase in wetland area will provide the potential for increase in wetland bird diversity and abundance;
 - 34.7 Stopping and partial reversal of the sedimentation issues in the lower estuary;
 - 34.8 Significant reduction in the erosion risk on the shorelines adjacent to the flood tide delta;
 - 34.9 Improved recreational opportunities and public foot access to the upper estuary from Ford Road as part of the wetland restoration; and
 - 34.10 An improved public boat ramp and car parking at Ford Road.

35. The potential adverse effects of the Project have been considered by a range of technical experts, who each give further detail in their evidence, including of their recommended means of addressing such effects. In my view, the experts have demonstrated that the adverse effects of the Project can be mitigated to acceptable levels.

ALTERNATIVES ASSESSMENT

36. An evaluation of the alternative sites, routes, and methods considered for the Project has been undertaken and is set out in Section 6 of the Assessment of Environmental Effects. It concludes that the proposed work is the best alternative, given the constraints of leaving Te Tumu Cut open and when considering the environmental, social, cultural, and economic parameters. That is, it is the alternative with the best overall outcome and which is able to be managed in a way which avoids, remedies or mitigates potential adverse effects, at a reasonable cost, and which therefore best meets the objectives.
37. A number of feasibility studies, modelling and 'optioneering' work began in 2001, leading to the definition and exploration of options and variations labelled from A to R. This process continued through a focus group associated with the development of the Strategy, and included the publication in 2008 of a comprehensive options report, and in 2012 with a pre-feasibility and consentability report. Full river re-diversion and partial re-diversion were considered along with retaining the status quo.
38. After considering these reports, the Regional Councillors resolved in 2012 that the scope of the Project should be limited to a "maximum flow, partial re-diversion" envelope of options (while keeping Te Tumu Cut open for flood relief). Multiple options were evaluated and assessed in a responsive and iterative approach, taking into account feasibility, constraints, fresh to saltwater rations, wetland creation, and land access. Options were assessed against the Project Objectives.
39. Council formally settled upon the preferred option for re-diversion of the Kaituna River in September 2013 following a four month period of pre-consent consultation.
40. Alternative locations for the contractor's site have been considered with the process of aiming to minimise impacts on landowners, site features, uses, and values.
41. Alternative construction methods have been considered and will continue to be considered as part of the detailed design process and further development of the construction methodology.
42. I note that Mr Don Paterson opposes the Project and has submitted an alternative proposal for the re-diversion. Council has met and corresponded extensively with Mr Paterson to

understand and investigate his alternative. Following an engineering assessment in 2014 that highlighted a number of unmanageable risks (such as increasing the flood risk at Maketū Township in a way that was unlikely to be able to be appropriately mitigated), Council took the view that further investigation and modelling of Mr Paterson's option was not warranted.

CONSULTATION AND KEY ISSUES RAISED

43. As the Project Manager, I have been responsible for the consultation undertaken on the Project. I have led this process right through the development of options and the inception of the Project (termed the Pre-Consent phase), through the Project refinement and pre-lodgement stage, and have been involved in almost all submitter meetings post-notification. In this section I will give an outline of these three phases of consultation.
44. The Project Team prepared a Communications Plan prior to the commencement of the consultation and engagement programme, outlining the principles and processes to be undertaken. The following general tools and techniques were used throughout the process:
- Public meetings and drop in sessions
 - Displays at community events
 - Newsletters and media releases
 - Project website - updated as necessary
 - Face to face meetings - meetings were set up as they were required or requested
 - Database - an internal database was set up and maintained to include names and contact details
45. Our overall aim was to provide the community with opportunities for active engagement prior to decisions being made, to ensure informed decision making that reflected to the extent practicable the views and preferences of the community.

Pre-Consent phase 2001 - 2013

46. Prior to my involvement with the Project there was an extensive period of consultation, including focus groups, a Joint Council Committee, public meetings and submissions to prepare the Kaituna River and Ongatoro / Maketū Estuary Strategy in 2009. The community input to the Strategy led to the identification of the re-diversion of the Kaituna River among the Strategy's highest priority management actions.
47. As part of the Project's assessment of social and cultural effects, during January and February 2013 research assistants conducted interviews with 246 people in and around Ongatoro / Maketū Estuary. Participants were asked to rate the health of the lower Kaituna

River and Ongatoro/Maketū Estuary, to provide information about the value to them of these areas and to give their perceptions of how this proposed partial re-diversion would affect their use of the river and estuary.

48. Food/kaimoana was the most highly valued aspect, especially by Māori participants. Recreational opportunities and fishing were highly valued by people from all ethnic groups. Māori participants emphasised the importance of cultural activities, and were also more likely to mention family connections and home as important. Both Māori and Pakeha participants thought the Maketū/Kaituna area had conservation value and also mentioned intrinsic values.
49. Approximately half of respondents thought the proposed re-diversion would have a positive effect on their activities; very few thought the effect would be negative. People commented that the re-diversion was likely to improve the health of the estuary and remove sedimentation, although some were concerned about the quality of water flowing down the Kaituna River from further upstream. Some people thought the re-diversion would enhance fishing and fish stocks especially within the estuary; while others were concerned that reduced river flow through the Te Tumu Cut would negatively affect fishing there.
50. Between May and August 2013, following on from Council's decision on the scope of the re-diversion, the Project Team consulted with tangata whenua, other stakeholders, and the general public on a further two options for the Project. The Project was publicised in local media and information posted on the Council's website. Responses were invited from iwi, landowners, environmental groups, the local community, and other key stakeholders. The purpose was to determine the community's preferred option for the Project, and to identify key themes or suggestions for improvement.
51. During this phase the Project Team received 35 separate responses from individuals, local authorities, central government agencies, community organisations, and tangata whenua. Feedback was also received at public meetings and community events. The Project team held targeted meetings with 23 parties, many of whom subsequently provided written responses following their meeting.
52. Almost three quarters of respondents expressed outright or conditional support for the Project, with only 6% expressing outright opposition. The responses did not provide a clear direction on a preferred option. Of the responses received, 20% preferred Option 1 with 14% preferring Option 2 - 66% of responses did not express a preference for either option.
53. Option 1 was rejected based on feedback and expert opinion that the risk of erosion and spit breach associated with using Papahikahawai Creek as the primary channel for the re-

diverted flow within the estuary was too high, and the additional cost of earthworks to implement it. Option 2 was modified substantially by shifting the intake 1km upstream and blocking the downstream end of Ford's Loop in response to feedback received about the importance of re-diverting freshwater from the Kaituna River rather than re-circulating sea water from Te Tumu Cut. This modified form of Option 2 was adopted by Council as its preferred option for the Project.

Pre-lodgement phase – 2014

54. Between the conclusion of the pre-consent consultation in August 2013 and consent lodgement in July 2014 the focus shifted to detailed modelling and investigation of the preferred option. Members of the Project team and I held three public meetings at Whakaue Marae to update the community and discuss investigation findings.
55. I met with each of the landowners whose land holdings will be partially required for the Project's preferred option, being Mr Alan Brain (and at that time a fellow trustee), Mr Allan Titchmarsh, and Mr Bruce and Mrs Debbie Dean. The aim of these meetings was to explain the preferred option, to understand the perspective and preferences of each owner in relation to the Project, to understand and plan for any effects that might need to be avoided, remedied or mitigated, to gauge the level of support for the Project, and to start informal negotiations with a view to eventually purchasing the required land. These negotiations are ongoing.
56. We met with Trustees of Papahikahawai Island both in Rotorua and on-site to explain the preferred option and how it would preclude cattle grazing in the future. We sought to understand their vision for the Island and included aspects of that vision in the Project design. We obtained support in principle for a compensation agreement and a co-funded Biodiversity Management Plan to restore indigenous vegetation to the pasture-dominated island over a ten year period.
57. Following on from meetings with individual iwi interested in the area of the Project, we commissioned the preparation of Cultural Impact Assessments. These were carried out by Maria Horne for Ngati Whakaue ki Maketū, Elva Conroy for Tapuika, Gina Mohi for Ngāti Rangiwewehi and Pia Bennett for all of Ngāti Mākino, Waitaha, Ngāti Pīkiao and Ngāti Tūnohopū.
58. We met regularly with Geoff, Dianne and George Ford and their representatives Jeff Fletcher and Christie Ralph to discuss the Project and related issues. As well as modifying the Project design, we are in the process of negotiating an agreement covering the future

legal and physical vehicular access between Ford Road and Ford Island, accepting that their existing informal access to Ford Island will be compromised by the Project.

59. Project Technical and Engineering Manager Steve Everitt and I also met with Shane Beech of the Maketū Coastguard, and Butch Waterhouse as the only resident commercial fisherman using Te Tumu Cut regularly. These meetings clarified both parties' understanding of the Project's effects relevant to them, and led to a proposal to shift their mooring facilities.
60. Project team members met with Council staff and ratepayers of the Kaituna Catchment Control Scheme to present effects assessments on the operation of the flood control and drainage scheme and to discuss appropriate mitigation for the slightly higher water levels predicted from Ford Road downstream through the estuary post-Project. At first it appeared that increasing the cross-sectional area of a number of gravity-outlets would provide the best long-term mitigation, but more recent modelling work has suggested that replacing one or two key culverts should be augmented with funds to pay for additional pumping instead.
61. Meetings were held with the Western Bay of Plenty District Council Managers of Reserves and Facilities (Peter Watson) and Roding (Alex Finn), and planner Marc Fauvel in order to clarify expectations, improve understanding and ensure that any issues were flagged well in advance so they could be addressed.
62. Discussions were held with both the Department of Conservation and Fish and Game New Zealand on the effects of the Project, primarily on water levels in the Lower Kaituna Wildlife Management Reserve. It was agreed that an additional intake culvert would be installed to mitigate the slightly lower water levels in the Kaituna River adjacent to the Reserve, and hence lower volumes of water flowing in.
63. The Maketū Ongatoro Wetlands Society met with us on a number of occasions to discuss concerns at the risk of a spit breach, and other matters relating to the ecological health of the estuary and lower river such as treatment wetlands.
64. Drop-in days were held at the Maketū Information Centre for residents who wished to speak on any aspect of the Project on a one to one basis with me.

Post-notification phase

65. The Project's original consent application received 46 submissions of which 24 were opposed, five neutral or indeterminate, and 17 in support.

66. I telephoned, met with, or offered to meet, all of the opposing, neutral, or partially supportive submitters to discuss the matters they raised and determine what further action was required (in some cases this was done by another Project Team member).
67. Submitters with whom we engaged included:

Private Landowners Affected

- 67.1 Alan Brain - his lawyer Adina Thorn advised that he would not like to discuss his submission. However, Council's property consultant Alan Kane has continued to negotiate and correspond with Ms Thorn on the matter of land acquisition. Council has obtained two updated valuations and presented an offer for both the required land and Mr Brain's entire property.
- 67.2 Allan Titchmarsh – he remains opposed but is happy to continue discussions and negotiations for the event that the Project is consented. Council has proposed mitigating any slight increase in the frequency of saline water at his consented water take by adding to his storage capacity and installing a salinity meter to prevent pumping when salinity is too high. Further, Council has proposed re-using excavated material from the new channel and old stop-bank to raise the level of Mr Titchmarsh's lowest paddocks. This will better protect these paddocks from floodwaters and will reduce the risk of saline groundwater intrusion limiting pasture production.

Kaituna Catchment Control Scheme and submitters on flooding or drainage effects

- 67.3 Bruce Crabbe, manager of the Kaituna Catchment Control Scheme together with staff and ratepayers – remains neutral until satisfied that additional modelling has demonstrated effects accurately, and that appropriate mitigation is proposed. It has proved to be quite difficult and time consuming to model the operation of the Scheme's drains due to the flat topography, the inter-linked drains, the three pump-assisted outlets to the river and estuary, and the absence of direct relationships between pump operation and flow volume. Regular meetings to communicate new findings and discuss possible mitigation options have been held with both scheme staff and ratepayers. A further meeting with completed modelling results and mitigation recommendation is scheduled for 20 April, and I am cautiously optimistic that an agreement can be reached.
- 67.4 Other submitters on flooding or drainage have received a letter outlining the process being followed by Council to more accurately assess the Project's effects and agree

on appropriate mitigation with the managers of the Kaituna Catchment Control Scheme.

- 67.5 Catalyst Highrise – in addition to the letter above, communications with the Project planner regarding water level and quality effects, and two letters from me with information on the effects of the Project on the navigability of Te Tumu Cut, and our proposed monitoring conditions have been provided.

Alternative re-diversion proposal

- 67.6 Don Paterson – I met with Mr Paterson on-site for two hours to revisit and better understand his alternative proposal for the re-diversion. I also asked Project coastal scientist and modeller Benjamin Tuckey to phone Mr Paterson to understand what he wanted to see and provide feedback to me on his perception of the merits and downsides. Mr Tuckey concluded that the decision not to continue investigations had been the correct one on the basis of risk, as well as the very low probability that the morphological behaviour described by Mr Paterson would in fact occur.

Ecological submissions

- 67.7 Eion Harwood – I offered to meet with Mr Harwood, or to set up a meeting with the Project Team's ecologists, in order to better understand and respond to his concerns about the ecological effects of the Project. He did not respond to the offer. I spent 90 minutes discussing Mr Harwood's concerns with him prior to consent lodgement, but he remained unconvinced about the benefits of the option proposed.
- 67.8 Lisette Collins - I offered to meet with Ms Collins, or to set up a meeting with the Project Team's ecologists, in order to better understand and respond to her concerns about the ecological effects of the Project. I provided a written response from ecologist Keith Hamill. She declined the offer to meet.
- 67.9 Fish and Game New Zealand – I met with Andy Garrick, and Project planner Stephanie Brown corresponded with John Meikle. We accepted their proposed additional conditions.

River users / boat operators

- 67.10 Shane Beech, Coastguard Maketū and R & S Waterhouse – there have been several meetings and correspondence with Project engineer Steve Everitt to negotiate suitable relocation of mooring facilities, and discussion about navigation

effects. We also sent two letters in relation to navigation and proposed monitoring conditions. Discussions are continuing.

- 67.11 S Beech, R Waterhouse, J Fletcher, L Balfin, D Butler, H & M By De Ley, J Cross, J Gray, K Witherow, M Brid, M Maltby, M Draffin, M Holyoak, N McPherson, P Crossan, R Beer, R Hintz, R & C Weld – all submitted regarding potential effects on boating navigation through Te Tumu Cut. To acknowledge this as the effect with the most submissions, we engaged a third specialist scientist from Canterbury University to peer review our findings. We then prepared a fact sheet with “Frequently Asked Questions” and answers (attached as **Attachment A**) which was distributed to all navigation submitters together with an invitation to a meeting on 15 February to discuss navigation matters. The meeting was well attended with 15 boat operators present. Council then reviewed its position, particularly in relation to potential contingency conditions such as extra monitoring of Te Tumu Cut, partial culvert closure and/or dredging, and followed up with a letter outlining the Project position. Council does not wish to commit to dredging because the evidence suggests the Project will have no noticeable effect on navigation, and any dredging would likely be ineffective given the high degree of natural variation in the river mouth and bar conditions.
- 67.12 Ford Land Holdings Pty Ltd, Te Tumu Landowners Group, Te Tumu Kaituna 14 and Te Tumu Kaituna 11B2 – Stephanie Brown and I met with representatives Jeff Fletcher and Christine Ralph to respond to submissions, and provided two letters on navigation. Project Legal Advisor Rachel Boyte has been negotiating an agreement to attempt to provide legal access from Ford Road to Ford Island. All parties are aware that the outcome is contingent on several other legal processes, including the acquisition of title to the reclamation from the Crown and access rights over Western Bay of Plenty District Council reserves.

Tangata whenua submissions in opposition

- 67.13 Ronika Edwards, Ngā Ahi Kaa Roa ki Maketū – I met with Ronika to discuss her concerns, which centred on the limited volume to be re-diverted and the fact that her mother, Pia Ker, had been instrumental in calling for a full re-diversion since 1979 as part of the Maketū Action Group.
- 67.14 Pia Bennett, Ngati Mākino Heritage Trust – I met with Ms Bennett post-lodgement and we briefly discussed the re-diversion among other things. A few matters remain outstanding, but discussions remain open and will continue to be.

67.15 Raewyn Bennett, Ngāti Pūkiao ki Maketū – I met with Ms Bennett for a lengthy meeting in April 2015 to continue discussions. Ms Bennett’s position is that the Council has not paid sufficient attention to the restoration of lost cultural identity. This could most easily be rectified by entering an agreement to employ young ahi kaa people from Maketū to build Māori capacity and restore some of their weakened connections to the estuary and environment. Council has to date engaged four young Maketū ahi kaa in the investigation and consenting phase of the Project to carry out monitoring and research work, and is committed to finding further opportunities within the bounds of local government procurement procedures. We are also proposing conditions that require the identification of opportunities for tangata whenua to be involved in planning and implementation of the wetland restoration (Proposed Condition 24.4(i)), and in developing education or research projects associated with the project, particularly around incorporating elements of Mātauranga Māori, and in wetland restoration and ecological monitoring (Proposed Condition 25.2(i)).

Submissions in support

67.16 We also contacted the submitters in favour of the Project to thank them for their submissions and, in some cases, to negotiate on matters outstanding. For example, we have engaged Maketū Ongatoro Wetlands Society to monitor Maketū Spit’s width and height on two transects in response to their concern about the temporary increase in risk of the spit breaching. We have met regularly with Western Bay of Plenty District Council staff to address the matters raised in their submissions.

67.17 It is pleasing to have the support of Te Maru o Kaituna River Authority, the new co-governance forum established through treaty settlement legislation. Likewise, supportive submissions from Ngāti Whakaue ki Maketū, Tapuika, Ngāti Rangiwewehi, Papahikahawai Trust, Ngāti Pūkiao (via Collen Skerrett-White) and Te Tumu Kaituna land trusts 8B1, 11B2 and 14 indicate that the Project is close to getting it right from the perspective of tangata whenua (noting however, that we received three submissions from Māori opposed to parts of the Project as detailed above).

67.18 We would like to thank the other supportive submitters, including Te Puke Branch of Forest and Bird, Mike Maasen, Michael Pittar, Petera Tapsell, Department of Conservation, Fish and Game New Zealand, Peter Ellery, Chris Richmond, Te Tumu Landowners Group and Ford Land Holdings Pty Ltd.

68. A significant amendment to the Project involving a change to the location of the boat ramp and associated car parking facilities was lodged in December 2014. Eight submissions were received before the 10 February deadline, of which seven were in support and one was neutral. The change to the location of the boat ramp was enabled through the opportunity to purchase the relevant land, and was also made in response to concerns raised in submissions to the July application about effects on Ford Road.

LAND REQUIREMENTS

69. While not directly relevant to the consideration of the resource consent applications and notices of requirement, I will now give a brief outline of the property the Regional Council requires to implement the Project and an update on negotiations to obtain the necessary property rights.
70. The Project requires 31.1 hectares of land from Mr Alan Brain comprising low-lying and relatively unproductive dairy support land as well as a channel of water known as Ford's Cut. Some of this land is required to widen and deepen Ford's Cut, and the balance will be used to create estuarine and palustrine wetlands. During the process of evaluating options it became clear that the costs of protecting parts of this 31.1 hectare area from higher water levels post-Project would far exceed the value of the land in question. Council paid for a valuation requested by Mr Brain from a valuer of his choice. A Notice of Desire pursuant to s18 of the Public Works Act has been sent to Mr Brain and registered against the titles affected. Council has made Mr Brain two offers to purchase land and is committed to negotiating a voluntary settlement in good faith if at all possible.
71. The Project requires 13.3 hectares of land from Kaituna Pastoral Farms Ltd (Mr Allan Titchmarsh). This area comprises approximately nine hectares of natural wetland, and 4.3 hectares of dairy pasture, some of which lies on the existing scheme stop bank. Mr Titchmarsh indicated a preference to receive land of equivalent value rather than cash for the land required for the Project, so it was agreed to suspend negotiations to see whether surplus land would become available through negotiations with Mr Brain. This has recently become much less likely, so negotiations are set to resume with Mr Titchmarsh. A Notice of Desire pursuant to s18 of the Public Works Act has been sent to Mr Titchmarsh and registered against the titles affected.
72. The Project requires 0.95 hectares of land from Kukuwai Ltd (Mr Bruce and Mrs Debbie Dean). This land is already estuarine channel and mudflat and is of no agricultural value. The Deans have indicated a willingness to negotiate and settle.

73. The Project requires 0.5 hectares of land from members of the Corbett whanau to provide the upgraded public boat ramp and car parking facilities. The owners approached the Regional Council to offer it for sale, and both parties are negotiating in good faith. The terms of a settlement are close to being finalised.

RESPONSE TO S42A REPORT

74. I have read the Officer's Report and am generally supportive of the analysis carried out and the conclusions reached.
75. I have some concern about Proposed Condition 19.6 as it introduces uncertainty about whether the activities considered as part of this application can be undertaken (in the event that consents are granted as sought), but on balance I am happy to accept this condition provided it does not become a major hurdle and in effect a secondary consenting process for the activities described here.
76. I have proposed re-wording Proposed Conditions 24.1 and 24.3 where these refer to "no less than 19 hectares of wetland" because the definition appears to require "sustainable vegetation cover" throughout the new wetland area. The exact area of new wetland created is expected to exceed 19 hectares (especially if the low-lying parts of Papahikahawai Island are included), but it is likely that peat-shrinkage through de-watering, cultivation and compaction on the land north of Ford's Cut has lowered ground levels to the point where a substantial part of this land will revert to unvegetated, or semi-vegetated, estuarine or brackish habitats. Achieving 19 hectares of new, vegetated wetland is somewhat uncertain. That said, the Regional Council is proposing several other wetland creation and/or wetland restoration projects in the lower Kaituna through its draft Long Term Plan 2015-25 (subject to adoption), so regardless of whether the area created through **this** Project is slightly under or slightly over 19 hectares, I am confident that the total area of new wetlands created over the next ten years will approach 100 hectares.
77. I have also discussed Proposed Condition 34, in relation to the mooring facilities with the Project Team. The Team has been considering an alternative option of relocating the facilities on the northern section of the saline block. This reduces potential effects and removes the need to widen Ford Road. This option has been discussed with the Coastguard and Butch Waterhouse, who have said that they are happy with this location in principle. We intend to provide an update on this at the hearing. However, it is very important that there is flexibility in the conditions to allow for this, provided the constraints and therefore environmental effects, are addressed (eg jetty size etc). Further, the Applicant would not accept a condition that makes the Project contingent on a permanent re-location. It is more than willing to continue to negotiate with the Coastguard and Butch

Waterhouse for their permanent re-location, but it does not accept that the level of effects of the Project on these parties in the long term (ie following construction) warrant such an approach.

CONCLUSIONS

78. Implementation of the Project will partially address the ecological degradation by stopping and potentially reversing the process of infilling in the lower estuary; improving the ecological health of the middle and upper estuary; re-establishing water flows and connections in the upper estuary; and creating at least 20 hectares of new wetlands or other estuarine habitats. These improvements, together with increased opportunities for public access to the estuary and river and involvement in restoration, will begin to address the cultural effects of the 1956 diversion of the Kaituna River as well.
79. Given the changes in land use and community since 1956 it is inevitable that the Project will have some effects on the environment. These effects are mostly positive for the environment, but where they are not they will be effectively remedied or mitigated through a range of conditions. I consider the Project to be a very important step in the process of addressing the degradation of the estuary and its surrounds so that its life supporting capacity and mauri can be improved for future generations in our community to enjoy.

Pim de Monchy

17 April 2015