

**I MUA I TE KOOTI TAIAO O AOTEAROA
TAMAKI-MAKAURAU**

ENV-2020-AKL-000052

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

UNDER the Resource Management Act 1991 (the **RMA**)

AND

IN THE MATTER a notice of motion under Section 87G requesting
the granting of resource consents to **ROTORUA
DISTRICT COUNCIL** to upgrade the existing
Rotorua Wastewater Treatment Plant and a new
discharge of treated wastewater (Lake Rotorua)

AND section 274 of the RMA

**NOTICE OF WISH TO BE PARTY TO PROCEEDINGS
ON BEHALF OF TE ARAWA LAKES TRUST**

22 June 2020



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**TO: The Registrar
 Environment Court
 Auckland**

**AND TO: Bay of Plenty Regional Council (Consent Authority)
 Rotorua District Council (Consent Authority)
 Rotorua District Council (Applicant)**

1. Te Arawa Lakes Trust (the **Trust**) wishes, pursuant to section 274 of the RMA, to be a party to the following proceedings **ENV-2020-AKL-000052** which concern the direct referral of resource consents to Rotorua District Council to authorise the proposed upgrade of the existing Rotorua Wastewater Treatment Plant (**WWTP**) and a new discharge of treated wastewater – Lake Rotorua (the **Application**).

Nature of Interest

2. The Trust made a submission on the Application.
3. The Trust also has an interest in the proceedings that is greater than the interest of the general public:
 - (a) The Trust is the post-settlement governance entity that was established to receive, manage and administer the trust funds on behalf of and for the benefit of present and future members of Te Arawa as prescribed within the Te Arawa Lakes Settlement Act 2006.
 - (b) The Application directly affects sacred and ancestral waterways of Te Arawa including, but not limited to, Lake Rotorua and Te Arikioa Thermal Channel.
4. The Trust is not a trade competitor for the purposes of section 308C or 308CA of the RMA.

Position in relation to relief

5. The Trust **opposes** the part of the application by the Rotorua District Council to discharge treated wastewater to an unnamed tributary of Lake Rotorua locally known as the Te Arikioa Thermal Channel (the **Discharge Application**).
6. The Trust opposes the Discharge Application, and the associated relief sought by the Applicant, for the reasons set out in its Submission in Opposition to the Application dated 30 November 2018. A copy of this submission is annexed and marked "**A**" and forms part of this section 274 notice (including the position statement of Ngāti Hurunga te Rangi).
7. In addition to, and without limiting the Trust's grounds of opposition as set out in the submission annexed and marked "**A**", the Trust says further:
 - (a) The discharge of human wastewater to water should not occur.
 - (b) The proposal to discharge wastewater into Lake Rotorua will have significant adverse environmental and cultural effects.
 - (c) The mitigation proposed through the Discharge Application does not avoid, remedy or mitigate the cultural effects.
 - (d) The Discharge Application does not sufficiently recognise and provide for the cultural relationships provided for in s6(e) of the RMA as a matter of national importance.
 - (e) The Trust has consistently maintained that it does not support the discharge of wastewater into Lake Rotorua (in any form including through being treated

and discharging through a channel, as the Discharge Application proposes).

- (f) The Trust supports the hapū in opposition and notes Ngāti Hurunga te Rangi has also maintained that it does not support the discharge of wastewater into Lake Rotorua.

- 8. The Trust **does not oppose** the part of the application by the Rotorua District Council for the upgrade of the Rotorua Wastewater Treatment Plant.

Alternative Dispute Resolution

- 9. The Trust agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 22nd day of June 2020

TE ARAWA LAKES TRUST by its solicitors:



H K Irwin-Easthope
Counsel for the Te Arawa Lakes Trust

Address for service of the Te Arawa Lakes Trust:

c/o Whaia Legal
PO Box 910
WELLINGTON 6140

Counsel:
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Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

"A"

TE ARAWA LAKES TRUST SUBMISSION

SUBMISSION

30 November 2018

To: Chief Executive Office
Bay of Plenty Regional Council
PO Box 364
Whakatane 3158
regulatoryadmin@boprc.govt.nz

Name of Submitter: Te Arawa Lakes Trust

This is a submission on the Resource Consent application 18-0508 Rotorua Lakes Council for the proposed upgrades of the Rotorua Wastewater Treatment Plant and discharge to the Arikiroa Channel to the Lake.

This submission relates to the part of the application to discharge treated wastewater to the Te Arikiroa Channel and the submission is to OPPOSE the application.

Context

Te Arawa Lakes Trust is the governance entity mandated to represent all registered members of Te Arawa. The Te Arawa Lakes Trust refers to the Te Arawa Lakes Settlement Act 2006 and the Te Arawa Lakes Deed of Settlement which contain various statutory acknowledgements that recognise Te Arawa relationships with many areas and resources within the Bay of Plenty Region and associated with the Rotorua/Te Arawa Lakes.

While Te Arawa lakes Trust is the governance entity for its hapū, its decisions are informed by hapū whose contributions to decision-making are delivered to Te Arawa Lakes Trust through their respective Trustees.

Te Arawa hapū are ahi-kā, mana whenua, tangata whenua, hunga tiaki, and significant landowners and ratepayers in the Bay of Plenty Region and have occupied land and managed resources in the area for many, many generations. Te Arawa continues to occupy, own, use and manage lands, areas of significance and resources in the Region. Te Arawa remains connected to their ancestral lands, waters, waahi tapu sites and other taonga.

The relationships of Te Arawa with their ancestral lands is statutorily required to be recognised and provided for under the Resource Management Act 1991 even if these lands may now be in the hands of others.

Te Tūāpapa o ngā Wai o Te Arawa is the framework through which the Te Arawa Lakes trust will consider all activity on the Rotorua/Te Arawa Lakes and in respect of the waterways.

Ngāti Hurunga te Rangi has provided the Te Arawa Lakes Trust with an ahi-kā/Mana whenua position statement with respect to the discharge and the Te Arawa Lakes Trust support the position of the ahi-kā/mana whenua.

On this basis the Te Arawa Lakes Trust owners of the Te Arawa Lake beds oppose the application by the Rotorua lakes Council to discharge treated Wastewater into Te Arikiroa Channel as it is direct conflict with the position of the ahi-kā/mana whenua and the values with the Te Tūāpapa o Ngā Wai o te Arawa (The Te Arawa Cultural Values framework).

Key Points;

1. There is no objection to the upgrade of the plant and the level of treatment of the wastewater.
2. The objection is to the discharge of the treated wastewater to water – Te Arikiroa and then to the Lake.
3. It is deemed by those hapū in opposition Ngāti Hurunga te Rangi, that the “land contact bed” prior to the discharge does not sufficiently address their issues.
4. These hapū wish to see a discharge to land option developed by RLC.
5. Te Arawa Lakes Trust has consistently stated that it does not support direct discharge of wastewater into the Lake and consider that despite this being treated wastewater and the discharge is via Te Arikiroa, this will go to the Lake.
6. There was not unanimous agreement to the “discharge” option and it is noted that the ahi-kā/mana whenua voted in opposition.
7. The findings from the Cultural Impact Assessment (Companion document number 2 attached to the Application and AEE) are that the proposal to discharge treated wastewater to Lake Rotorua will have significant adverse effects. Those effects are deemed to be:
 - a. A loss of mana among local hapū who are strongly opposed to the discharge to the Rotoruanui-ā-Kahumatamomoe as a matter of principle. This loss of mana could be described as a belittling of Rangātiratanga (authority of chiefs) by perpetuating an unacceptable activity.
 - b. Effects on the relationship between local resident hapū members and the lake expressed through the activities of fishing and harvesting, cooking and healing. The association of wastewater and the lake as a food basket is anathema to having a kitchen in the toilet/bathroom. This affects the perception of Te Arawa whanau, in particular local resident hapū members to discontinue harvesting of kai and cooking in the lake in proximity to the discharge area (Puarenga). This effect does not extend to the abundance of kai or the quality of the kaimoana.
 - c. There are also some negative effects of a low to moderate nature that are likely. These include:
 - d. Effects on the natural character of the Puarenga environment. The introduction of some 20 million litres of treated wastewater a day represents a significant change to the natural environment.

Te Arawa Lakes Trust agrees that these are significant effects of the discharge of the treated wastewater to Te Arikiroa Channel and that they cannot be mitigated.

8. This assessment also concludes that the proposal to discharge treated wastewater to Lake Rotorua will have some significant positive effects. These are deemed to be:
 - a. Positive effects on the mauri of the treated wastewater. This will involve the spiritual cleansing of the treated wastewater as it passes through the various experiences and contexts within the land contact bed and be in a state of 'mauri tau'.

The Te Arawa Lakes Trust Board and Ngāti Hurunga te Rangi do not support that this is a significant positive effect and maintain the view that while there may be some positive effects the treated wastewater is not returned to a state that should be discharged to the Te Arikiroa Channel and the Lake.

A review of the Application through the Te Tūāpapa lens was undertaken and the following is noted;

1. Te Tūāpapa was used by the Cultural Advisory Subcommittee (CAS) to set the framework for developing the solution for the wastewater discharge. The 2 principles of (1) value the role that TALT and Te Arawa have to play regarding the Te Arawa Lakes and (2) the Māori world view, culture and values are a core element of what it means to be Te Arawa.
2. The application and the Cultural Impact Assessment in particular outline how the 2 principles have been provided for. The RPSC was largely made up of hapū and iwi whose input and contribution was considered and provided for in the development of the proposal. It is however considered that the role of ahi-kā/mana whenua was not given the weight or consideration deserved in the process.
3. The CAS was established to develop a solution that would address the problem from a cultural perspective. It is recognised that the development of the solution was based on Te Arawa Matauranga and Matapono. The CIA lists the experts consulted on the development of the contact bed. It is the view of the ahi-kā/mana Whenua that at no time did they support the discharge to the Arikiroa channel or the Lake and that despite the efforts of the CAS they cannot support the contact bed and discharge.
4. In respect of TE WHAKAPAPA o TE WAI, WAIARIKI and implementation of WAIORA, WAIKURA and WAIATA aspects of the Te Tūāpapa framework there is no direct application of this to the proposal. A full assessment of this framework will be required. See Appendix 2.

The Recommendations in the CIA (see Appendix 3) cover 2 key points that the Te Arawa Lakes Trust and Te Hurunga te Rangi wish to see progressed.

This project has not identified feasible and acceptable land discharge locations or methods for treated wastewater. This is not to say they may not be available in the future. Medium to long-term alternatives should be explored and subject to feasibility, investigated.

The conservation of water at its source (of use) has been a common theme throughout engagement. This assessment recommends that investigating and implementing measures to reduce wastewater being discharged by reducing the inputs into the plant at their source would have beneficial

outcomes. This could include education and awareness programmes, metering, and improvements in the separation of storm water and wastewater networks.

A further significant issue for the Te Arawa Lakes Trust and Hurunga te Rangi is the treatment of Emerging Contaminants. There is a concern that the Rotorua WWTP will not be able to remove these from the treated Wastewater and therefore the contact bed will not be able to appropriately deal with these as it is for the purposes of achieving “mauri tau”. In neither of these processes can the emerging contaminants be treated. Emergent Contaminants are considered to be endocrine disruptors, anabolic steroids, pesticides, herbicides, personal care products and pharmaceuticals including methamphetamines.

Te Arawa Lakes Trust acknowledge the efforts to address Sections 6(e), 7(a) and 8 of the Resource Management Act 1991 however we are concerned that these matters have not been addressed sufficiently.

Te Arawa Lakes Trust and Te Hurunga te Rangi do not believe that the Application as it stands, in particular the proposal to discharge treated wastewater to Te Arikirua, will not avoid, remedy or mitigate the adverse effects on the environment.

Te Arawa Lakes Trust and Hurunga te Rangi agree that the Application is inconsistent with and contrary to the relevant provisions of policy statements and plans, including objectives and policies in the Bay of Plenty Regional Policy Statement and Bay of Plenty Natural Resources Plan which recognise and provide for matters of significance to Māori.

The Te Arawa Lakes Trust and Ngati Hurunga te Rangi seek that the consent authority refuse the consent.

The Te Arawa Lakes Trust with Ngati Hurunga te Rangi wishes to be heard in support of this submission.



Signed

Ta Toby Curtis

Chair – Te Arawa Lakes Trust

Date: 30 November 2018

Address for Service Te Arawa Lakes Trust
1194 Haupapa St,
Rotorua 3010
Attention: Karen Vercoe (CEO)
Phone 07 346 1761

Position statement of Ngati Hurunga te Rangi

Ngati Hurunga te Rangi do not want treated wastewater to be discharged into Te Arikiroa. Te Arikiroa continues to suffer the cumulative effects of decades of historic and continuing pollution.

We seek the restoration of our plants, animals and fisheries in Te Arikiroa. We desire the return of the birdlife and frogs, the raupo, paopao and our rongoa. We hope that one day we will again have the kakahi, koura, morihana, trout and watercress which used to sustain our people. We can then revive the cultural traditions and customary practices associated with these taonga. The mauri of the land, the water, the plants, animals and people will then get stronger.

The current discharge proposal into Te Arikiroa with earth contact is not sufficient to restore the mauri of the wastewater. If the wastewater is discharged at Te Arikiroa and our taonga one day return, we would not gather kai or fish or swim there. Discharge to Te Arikiroa condemns us to a future where there is no chance to restore our tikanga, our mahinga kai and our mauri.

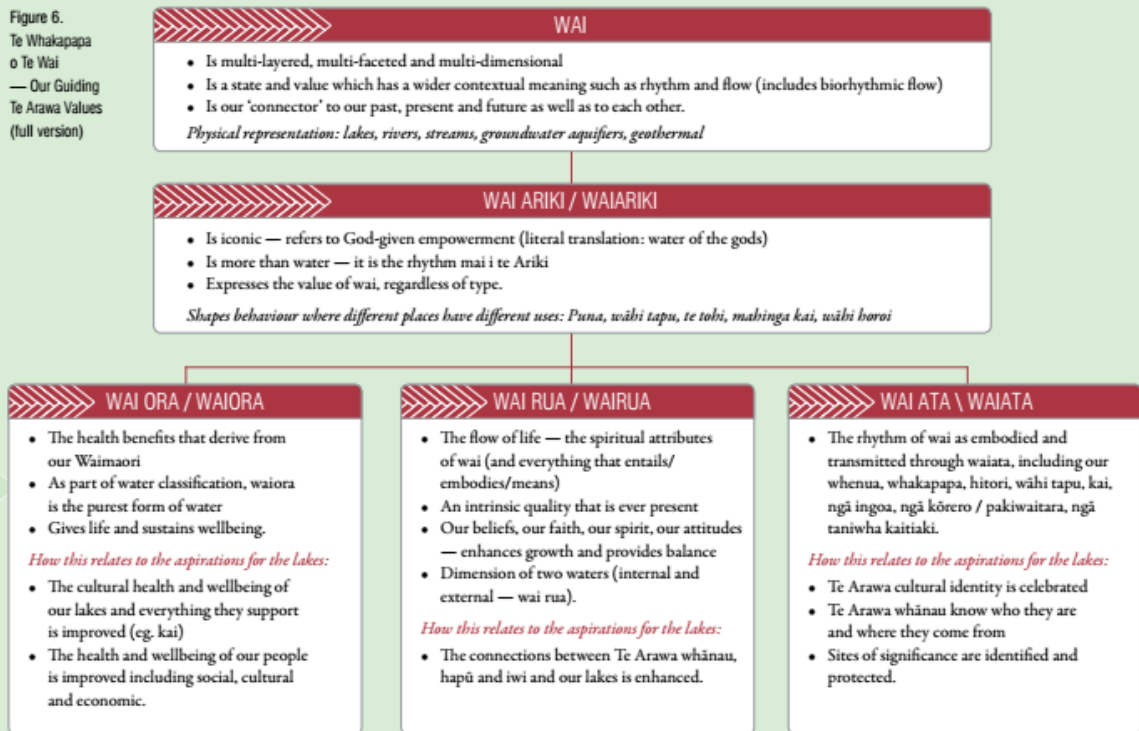
The wastewater should go somewhere else.



(Blue lines indicate the main course for the proposed discharge)

Appendix 2 – Te Whakapapa o Te Wai

Figure 6.
Te Whakapapa
o Te Wai
— Our Guiding
Te Arawa Values
(full version)



8.0 RECOMMENDATIONS

The upgrading of the wastewater treatment plant and the discharge of treated wastewater is of strategic importance to the district and the region. The resource consents represent a once in a generation opportunity to improve on the previous generation.

A range of recommendations are provided here to give meaning and weight to the commitments and expectations of tangata whenua.

In the first instance ongoing consultation is recommended with affected iwi and hapū groups for the purpose of keeping tangata whenua informed of the project and key milestones in decision-making process. In the second instance the Rotorua Lakes Council should look to establishing and maintaining relationship agreements with hapū that share manawhenua with the site of the wastewater treatment plant, either collectively or individually. These relationship agreements could address mana whenua concerns with the ongoing operations of the treatment plant but also wider concerns that may not be able to be addressed in consent conditions. As recommended in the cultural impact assessment for the treatment plant (April 2017), the establishment of a wastewater treatment Tangata Whenua Committee should recognise the primary interests of mana whenua groups.

This project has not identified feasible and acceptable land discharge locations or methods for treated wastewater. This is not to say they may not be available in the future. Medium to long-term alternatives should be explored and subject to feasibility, investigated.

The conservation of water at its source (of use) has been a common theme throughout engagement. This assessment recommends that investigating and implementing measures to reduce wastewater being discharged by reducing the inputs into the plant at their source would have beneficial outcomes. This could include education and awareness programmes, metering, and improvements in the separation of stormwater and wastewater networks.

Rotorua Lakes Council should consider potential applications of geothermal energy for treatment and energy efficiency in the future operations of Council infrastructure and facilities. Considerations could include research, feasibility, and consultation with the geothermal industry sector.

If the application is granted consent the further measures are recommended to be implemented as part of the consent conditions or programmes of Council:

- The establishment of a Tangata Whenua Monitoring Forum to oversee the monitoring of the land contact bed and its performance. This forum should reflect the nature of close relationships of hau kainga with the wastewater treatment plant site in its composition and role.
- A reference group of pūkenga (Māori experts) is established to provide advice and direction in the delivery of a land contact bed.
- At appropriate time periods (such as every 5 years) a mauri monitoring report be prepared and presented to a forum of iwi and hapū representatives. The mauri monitoring report should set out results and any key issues with the performance of the land contact bed.
- A mauri monitoring programme is established to monitor the performance of the land contact bed. This monitoring programme should link to the Te Arawa Values Framework, include relevant Mātauranga Māori indicators and involve the participation of Kaitiaki from directly affected hapū.
- There should be a reporting function for monitoring reports and updates to hapū and groups

such as Te Arawa Lakes Trust.

- In recognition of the significant adverse effects of the proposal, a nominal sum is set aside to fund a restoration and enhancement projects which includes the participation of tangata whenua in the improvement of water quality. This fund should involve hapū representatives in its administration and distribution. This fund could support hapū water improvement projects.
- Detailed drawings and plans are produced for the land contact bed that reflects the consultation conceptual images.
- Establish performance standards for the land contact bed.
- The construction of a natural looking bund to direct treated wastewater to Lake Rotorua and to avoid overflow to the Puarenga Stream.
- Confirm the ranges of depth and width of a flow exiting the land contact bed into the Puarenga Bay.
- Medium to long-term alternatives should be explored and subject to feasibility investigated.
- Ensure health and safety considerations are provided for in design and delivery through conducting a risk management workshop and preparing suitable health and safety plans for its operation.
- Remedial measures and monitoring of the nutrients at the Whakarewarewa Forest as agreed with CNI Forest owners and managers