

Decision Report

Southern Generation Limited Partnership

Application RM23-0389
to
Bay of Plenty Regional Council

16 May 2024

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1 Introduction

- [1] The Decision Report deals with the application lodged by Southern Generation Limited Partnership (SGLP or applicant) for the extraction of gravel, sediment and debris from the bed of the Rangitāiki River and Lake Aniwanīwa.

The application is granted for the reasons herein.

2 Appointment

- [2] The Bay of Plenty Regional Council (BOPRC), acting under s34A of the Resource Management Act 1991, appointed Independent Hearing Commissioner Rob van Voorthuysen¹ to hear and decide the application.

3 Description of the Proposal

- [3] The application was described in the SGLP application document², the evidence of Tim Fergusson³ and by Tracey Bowers in her Section 42A Report⁴. I adopt those descriptions, but note some of the more salient matters as follows:

- the proposed extraction of gravel from the Rangitāiki River on the true right side of the main channel downstream of the Kopuriki Road Bridge (also known as Rabbit Bridge) is intended to reduce backwater flooding upstream and around Lake Aniwanīwa. The gravel will be extracted using a 30 tonne long reach excavator located on the true right river bank, where the gravel will be stockpiled in compacted layers for up to three years, prior to its removal off-site once a final disposal location has been confirmed;
- The gravel extraction works are proposed to take place over the winter period from early June (following Kings Birthday weekend⁵) until 31 August;
- the debris island⁶ removal is intended to remove obstructions to the Rangitāiki River flow entering Lake Aniwanīwa and reduce erosion to the right-hand bank of the Lake at that location. The debris islands will be removed by either an excavator or a shore-based grapple and winch. The works are proposed to take place over the period from 1 January until mid-April (two weeks prior to the opening weekend of the duck shooting season which is the first full weekend of May);
- SGLP seek a six-week window within which to undertake the gravel extraction works, although the actual time that extraction occurs on the ground is expected to be around two to three weeks. The extra time⁷ sought is to allow for reduced daylight hours (given the winter period when the works will now occur), potentially different ground conditions in the winter compared to the summer, Health and Safety considerations, and fish salvage and monitoring requirements⁸;
- The removal of debris islands will occur in the summer months and will be completed within two weeks⁹;
- At the Pre-Hearing Meeting (see below) SGLP proposed to limit the works to no longer than six consecutive days after which there would be a 24-hour standdown period after which the works would restart. They also proposed working hours of 7.30am - 5.00pm in order to limit the duration of noise and aquatic habitat disturbance.

¹ Commissioner van Voorthuysen is an experienced Independent Commissioner, having sat on over 415 Hearings throughout New Zealand since 1998. He has qualifications in natural resources engineering and public policy. In 2020 he was appointed as a Freshwater Commissioner by the Minister for the Environment.

² Southern Generation Limited Partnership, Aniwhenua Hydroelectric Power Scheme, Resource Consent Application, Removal of Gravel and Debris Islands of Lake Aniwanīwa, PTM Consulting Ltd, 16 October 2023. Section 3 "Description of Proposed Works."

³ Section 2.3.

⁴ Officer's Report for publicly notified resource consent application, Section 42A Resource Management Act 1991 (RMA). Section 3 "Summary of Proposal", Section 4 "Background Information" and Section 5 "Description of Environment".

⁵ Which in 2024 is Monday 3 June,

⁶ Broken willow trees and stumps transported during flood events become grounded in shallower sections of the Lake. These can then begin growing and form islands.

⁷ It was originally considered that the gravel extraction would require an eleven-day period of time.

⁸ Statement of Evidence, Peter Mulvihill.

⁹ Ibid.

4 Process Issues

4.1 Written approvals, notification, submissions and pre-hearing meetings

[4] As far as I am aware no written approvals were obtained.

[5] The application was publicly notified and submissions were received from:

Submitters in Support
Cathy and Peter Brown
Rangitāiki-Tarawera River Scheme Advisory Group
Tania Akehurst
Colin Holmes
Te Runanga o Ngāti Whare
Submitters in Opposition
Eastern Region Fish and Game Council (Fish & Game)
Eastern Bay of Plenty Branch of Royal Forest and Bird (Forest and Bird)
Director-General of Conservation (DOC)
Lawrence Wetting

[6] The submissions were summarised in the Section 42A Report and I adopt that summary without repeating it here.

[7] A pre-hearing meeting involving SGLP, Fish & Game and DOC was held on 4 April 2024. A summary of the matters discussed was set out in the Section 42A Report¹⁰.

4.2 Officer's recommendation

[8] Ms Bowers recommended granting the applications subject to conditions.

4.3 Hearing, appearances and site visit

[9] The following submitters appeared at the hearing¹¹:

- Colin Holmes;
- Fish & Game NZ Eastern Region (Fish & Game)¹²; and
- Eastern Bay of Plenty Branch Royal Forest and Bird Society NZ Inc (Forest and Bird)¹³

[10] I held a hearing in the Eastbay REAP (Moutohorā) building in Whakatane on Tuesday 14 May 2024.

[11] Evidence from SGLP¹⁴ and Forest and Bird¹⁵ was pre-circulated in conformance with a procedural Minute that I issued. Additional written evidence from Fish and Game¹⁶ was tabled at the hearing. Copies of the evidence is held by BOPRC.

[12] I do not separately summarise the matters covered by each of the hearing participants here, but I refer to or quote from that material as appropriate in the remainder of this Decision. I took my own notes of any answers given to verbal questions that I posed to hearing participants.

[13] Mr Ferguson provided a verbal Reply at the hearing.

¹⁰ Section 9 "Pre-Hearing Meeting".

¹¹ The Director-General of Conservation tabled a letter dated 13 May 2024 but did not appear at the hearing.

¹² John Meikle Fish and Game Officer.

¹³ Linda Conning, Chairperson of the Eastern Bay of Plenty Branch of Forest and Bird.

¹⁴ Peter Mulvihill (engineering), Richard Montgomerie (ecology), Tim Fergusson (planning).

¹⁵ Linda Conning

¹⁶ John Meikle

- [14] I intend to close the hearing after I have issued a final suite of conditions (see section 8 of this Decision).
- [15] I conducted a site visit on the afternoon of Sunday 13 May 2024 accompanied by Maura Childs, SGLP's civil monitoring and groundsman person. We walked down the true right bank of the Rangitāiki River adjacent to the reach that is proposed to be dredged. I was able to view the river bed (the water was running clear at around 30 cumecs) and the Aniwaniwa Wetland to the east of the river berm. It appeared that much of the wetland visible from the river berm was dry. I also viewed the culverts under the river berm that are just downstream from the Kopuriki Road Bridge. The culverts were half exposed above the river water level and no flow was going through them. I viewed the site of the intended temporary location for the 'boat ramp' and parking area above the Kopuriki Road Bridge. I also viewed the debris islands intended to be removed from the river delta where it enters Lake Aniwaniwa.

4.4 Consent category

- [16] Consent is required under the Regional Natural Resources Plan (RNRP):
- Rule BW R36 Discretionary – Disturbance of the bed of the Rangitāiki River and Lake Aniwaniwa caused by the excavation and extraction of vegetation, gravel and sediment;
 - Rule DW R8 Discretionary – Discharge of sediment to water, and discharge of sediment contaminated stormwater to land where it may enter water; and
 - Rule LM R4 Discretionary – Earthworks¹⁷ within 20m of a waterbody.
- [17] Consent is required under the Regional Council Gravel Management Plan (RCGMP):
- Rule 4 Discretionary – the excavation and extraction of gravel from the bed of the Rangitāiki River.
- [18] Under the commonly accepted 'bundling principle' the application is to be assessed as a discretionary activity.

4.5 Permitted baseline

- [19] When forming an opinion for the purposes of subsection 104(1)(a) of the RMA I may disregard an adverse effect of the activity on the environment if a national environmental standard or a plan permits an activity with that effect.¹⁸ I have not disregarded any potential adverse effects.

4.6 NES-FW 2020

- [20] The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-FW) impose restrictions on activities undertaken in proximity to a 'natural inland wetland'. The interpretation section of the NES-FW states that a "natural inland wetland has the meaning given by the National Policy Statement for Freshwater Management." Clause 3.21 of the National Policy Statement for Freshwater Management 2020 (amended January 2024) defines a 'natural inland wetland' as follows:

- natural inland wetland** means a wetland (as defined in the Act) that is not:
- (a) in the coastal marine area; or
 - (b) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural inland wetland; or
 - (c) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or
 - (d) a geothermal wetland; or
 - (e) a wetland that:
 - (i) is within an area of pasture used for grazing; and
 - (ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the *National List of Exotic Pasture Species* using the *Pasture Exclusion Assessment Methodology* (see clause 1.8)); unless

¹⁷ Placement of excavated gravel, sediment and vegetation on land.

¹⁸ Section 104(2) of the RMA.

- (iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply

[21] Lake Aniwanuiwa is a deliberately constructed water body as it formed following the construction of the Aniwhenua hydroelectric power scheme which dammed the Rangitāiki River in the early 1980s. That factual matter is abundantly clear from the sequence of aerial photographs of the Rangitāiki River spanning the period 1941 to 1984 that are contained in Appendix G of the AEE¹⁹. The wetland area that now exists either side the of Rangitāiki River below the Kopuriki Road Bridge and Lake Aniwanuiwa therefore meets exemption clause (c) of the NPSFM 2020 definition of natural inland wetland.

[22] Consequently, the provisions of the NES-FW relating to 'natural inland wetlands' do not apply.

5 Section 104 and 104B

[23] I now address the relevant aspects of the application in terms of sections 104 and 104B of the RMA.

5.1 Actual and potential effects on the environment

[24] Having reviewed the documentation I find that I should address the following potential effects:

- Positive effects
- Effects on aquatic and avian ecosystems
- Effects on water quality
- Biosecurity
- Effects on wetland water levels
- Effects on recreational activities
- Māori cultural values and interests

5.1.1 Positive effects

[25] The accumulation of sediment in the Rangitāiki River below the Kopuriki Road Bridge and the formation of islands in the upper part of the delta where the Rangitāiki River enters Lake Aniwanuiwa can cause a backwater effect that raises water levels in the river, resulting in the flooding of upstream properties and the impedance of drainage systems. The proposed deepening of the true right-hand side of the Rangitāiki River below the Kopuriki Road Bridge and the removal of islands in the river delta will help to alleviate that backwater effect.

[26] The evidence is that the proposal²⁰ will lower river levels as follows:

Reach	Change in water levels (mm)	
	High flow (200 m ³ /s)	Normal flow (40 m ³ /s)
Kopuriki Road Bridge	200	70
500m upstream of bridge	470	230
Between bridge and delta	≈ 100 ²¹	20 - 30

[27] The lowered river levels extend around 2km upstream of Kopuriki Road Bridge.

[28] These positive effects weigh in favour of granting the application.

¹⁹ Ferguson Planning; Lake Aniwanuiwa Sediment/Gravel Removal, Kopuriki Road, Galatea FPL Reference: 22-101. Planning Assessment Against National Policy Statement For Freshwater Management (NPS-FM) and National Environmental Standard For Freshwater Management (NES-FM).

²⁰ From Appendix C of the AEE (WSP report titled Kopuriki Flood Modelling, 20 May 2020) I understand that the proposal before me is essentially Option 3 that was assessed in that report.

²¹ From Figure 7 of the WSP Report

[29] I note some submitters in support of the application sought more extensive interventions to reduce upstream flooding. For example, Colin Holmes and his witness Scotty Muir sought a sustainable long-term solution to the flooding and drainage effects upstream of Lake Aniwanīwa which included a much more extensive gravel extraction programme. I acknowledge their concerns, but observe those matters will necessarily need to be addressed as part of the upcoming reconsenting of the Aniwanīwa hydroelectricity scheme. My task is to assess the effects of what SGLP has applied to do at this point in time.

5.1.2 Effects on aquatic and avian ecosystems

[30] The extraction of the riverbed gravels will clearly have an adverse effect on the macroinvertebrate community within Rangitāiki River. However, that effect is temporary as the excavated area will be readily recolonized from upstream. Following the completion of the gravel extraction works the benthic invertebrate community will likely return to pre-disturbance diversity and abundance levels within 4 to 6 weeks²².

[31] The removal of debris islands will have an insignificant effect on the overall habitat in Lake Aniwanīwa. The wider wetland area at the head of the Lake where the debris island removal will occur is around 131 ha in size. I agree with Mr Montgomery²³ that the effect of the loss of a small number of debris islands which have only formed recently (typically within the last 5 years), and which can also be removed by flood events, is less than minor.

[32] The extracted riverbed gravels and debris islands may contain entrained fish and other aquatic fauna. However, the applicant has prepared a Fish Management Plan (FMP) that details how the applicant will salvage and relocate any entrained eels and other native fish, freshwater crayfish (Koura) and freshwater mussels (Kakahi)²⁴ back into the Rangitāiki River. Under conditions I have imposed the FMP will be finalised in consultation with Te Rūnanga o Ngāti Manawa and Te Runanga o Ngāti Whare.

[33] The gravel extraction works also have the potential to disturb fish spawning. However, at the Pre-hearing Meeting Fish & Game helpfully advised that trout spawning occurs mostly on the true left side of the Rangitāiki River²⁵ at the location of the intended works and so the gravel extraction can safely occur during the May to August trout spawning period. Regarding indigenous fish, BoPRC technical reviewer Fleur Tiernan advised that “at risk and declining” native fish species (Torrentfish, Inanga and Giant Kokopu) were not likely to be present in the area affected by the gravel extraction.

[34] The gravel extraction has the potential to adversely affect eel (tuna) migration, both juveniles travelling upstream and adults travelling downstream. Downstream adult eel migration occurs from January to June, with February to May being the peak period. Upstream juvenile eel (elver) migration occurs from August to April, with a peak period between September and December. The gravel extraction will occur outside the peak period for the migration of juvenile tuna. The gravel extraction will marginally overlap the period during which adult tuna migrate downstream (but not the peak migration period), however being a mobile species, the adult tuna will be able to avoid the gravel extraction areas, especially as the true left-hand side of the Rangitāiki River channel will not be disturbed.

[35] There is an active programme to trap and transfer migrating elvers that are impeded by the Aniwanīwa dam. Ms Bowers has recommended that SGLP be required to notify Te Rūnanga o Ngāti Manawa and Te Rūnanga o Ngāti Whare (iwi parties involved in the trap and transfer programme) prior to gravel extraction works occurring, requesting that any elver release is moved to a location upstream of the area of works in order to limit the potential disturbance to the elvers' migration. I find that is a reasonable cautionary approach and one that is accepted by SGLP.

[36] The possible use of an excavator in the bed of Lake Aniwanīwa will disturb that habitat. However, Ms Tiernan has recommended that the excavator be restricted to a single track in accordance with a tracking

²² SOE Montgomery, paragraph 3.9.

²³ SOE paragraph 5.9.

²⁴ SOE Montgomery, paragraph 6.2.

²⁵ Excavation will be 15m wide and commence 1m out from the true right bank.

map to be provided by SGLP prior to works commencing. In addition, SGLP has offered a Biosecurity Management Plan with the objective of minimising the risk of introducing or spreading unwanted organisms from the tracking and movement of vehicles across the Lake bed. Under conditions I have imposed that FMP will be finalised in consultation with Forest and Bird who helpfully identified biosecurity risks as one of their primary concerns.

- [37] Regarding avifauna (birds), Ms Bowers noted that nesting birds are likely to inhabit the vegetation on debris islands and also the trees and vegetation surrounding the river gravel stockpile site and access track on the bank of the Rangitāiki River. SGLP has agreed to undertake an avifauna survey of the affected area if works are proposed during the bird nesting period of September to March and to avoid any nests. Given the respective work periods discussed above, this will only affect the debris island removal activities²⁶. Consequently, any conditions relating to nesting birds do not need to apply to the river berm alongside the gravel extraction reach.
- [38] If nesting birds are located, the surveying ecologist will identify them and define a setback buffer. I have imposed a condition that the setback be 30 metres as recommended by Ms Conning. Works will not be carried out within the setback until nesting birds have fledged. I note that the affected bird species are likely to comprise common native and introduced species that are typical of modified environments²⁷. In that regard while appearing onerous, the conditions relating to nesting Protected birds (including game birds of interest to Fish and Game and Threatened and At-Risk indigenous birds) may not in fact be overly restrictive in practice.
- [39] I am satisfied that potential adverse effects on aquatic and avian ecology have either been avoided or can be mitigated to the extent practicable. Consequently, those matters do not weigh against a grant of consent.
- [40] Regarding terrestrial vegetation, the applicant has proposed a Riparian Planting Plan as part of the earthworks consent. The intent being to remedy any vegetation damage to the banks of the Rangitāiki River, Lake Aniwanīwa or the Aniwanīwa Wetland adjacent to the river gravel deposition area. I find that to be appropriate and I also concur with the improvements to the relevant conditions suggested by Ms Conning.

5.1.3 Effects on water quality

- [41] The RNRP water quality classification of the Rangitāiki River and Lake Aniwanīwa at the location of the works is 'Aquatic Ecosystem'. The primary (arguably only) potential adverse effect on water quality (insofar as that has an influence on the aquatic ecosystem) relates to the release of suspended sediment during the gravel extraction and debris island removal works. Given those works will occur in the beds of the Rangitāiki River and Lake Aniwanīwa that effect is unavoidable. Sediment could also be discharged from the earthworks required to enable access for the excavator and the gravel that will be stockpiled on the true right bank of the river. However, that can be mitigated by routine erosion control measures and SGLP has proposed an Erosion and Sediment Control Plan (ESCP) for that purpose.
- [42] Ms Bowers recommended that the culverts between the Rangitāiki River and the adjacent Aniwanīwa Wetland be blocked with a silt curtain (or a structure) to allow water flow to continue between the wetland and river whilst mitigating any flow of suspended sediment into the wetland. However, I am not persuaded that is necessary. Conditions can be imposed that prevent a continuous duration of any suspended sediment plume arising from the gravel extraction, as discussed below. Consequently, I do not consider that any discharge of suspended sediments into the Aniwanīwa Wetland through the culverts on the true right bank of the Rangitāiki River will be any more than minor. In that regard my site visit revealed the channels in the wetland into which the culverts discharge are heavily vegetated with macrophytes which would readily prevent any suspended sediment dispersing very far at all into the wetland. Also relevant to my finding on that matter is my observation that there was no water flowing through those culverts on the day of my site visit when the River was flowing at around 30 cumecs.

²⁶ River gravel extraction works must only occur between the period of early June (immediately following Kings Birthday weekend) to 31 August of the same year

²⁷ AEE, Appendix H, page 15.

- [43] Consequently, I find there is no need to impose recommended conditions 12.1 and 12.2 on consent RM23-0389-BC.01.
- [44] For the gravel extraction works Ms Bowers, acting on the advice of Ms Tieman, proposed an allowable suspended sediment limit increase of 200 NTU relative to upstream conditions at a point 200m downstream of the gravel extraction, with 200m being a zone of reasonable mixing proposed by SGLP. She also proposed that the gravel extraction would cease if that limit was exceeded. I find that to be unduly onerous and unnecessary.
- [45] Relevantly, the gravel extraction works are likely to take between two and six weeks to complete, albeit the actual bed disturbance is only likely to occur on 14 to 21 days²⁸ in total and for no more than six consecutive days. Furthermore, Ms Bowers noted that Ms Tieman had advised that whilst the gravel extraction and debris island removal will mobilise sediment, there will be no additional load of sediment added to the Rangitāiki River system and the temporary release of sediment would result in sediment being redistributed downstream, something which would be expected to occur naturally during flood events. In addition, any suspended sediment plume is unlikely to span the full width of the Rangitāiki River, thereby allowing fish and other fauna the opportunity to move away from the plume, and dissipation of suspended sediments is likely to be rapid.²⁹
- [46] Consequently, I see no need to impose a suspended sediment water quality limit that would require the gravel extraction or debris island works to cease. Instead, I favour the pragmatic suggestion made by BoPRC's Engineering Manager Mark Townsend at the hearing. He advised that gravel extraction undertaken by the Council involved allowing the sediment plume arising from each operation of the excavator bucket to dissipate before the next bucket load of gravel was scooped out. He said that dissipation in a river the size of the Rangitāiki River would "only take seconds not minutes". That aligns with Ms Tieman's view on sediment plume dissipation.
- [47] That being the case there is no need for the water quality to be monitored for turbidity as a proxy for suspended sediment. Consequently, there is no need to impose recommended conditions 13 and 14 on consent RM23-0389-BC.01. In particular, there is no need to impose recommended condition 13.2 as its clauses do not relate to the potential effects of the activity (namely suspended sediment), and in any case the discharge of the suspended sediment is of a temporary nature and so is permissible under s107(2)(b) of the Act and in my view granting the applications is consistent with the purpose of the Act. It is also arguable that the gravel extraction works comprise necessary maintenance (s107(2)(c)).

5.1.4 Biosecurity

- [48] Linda Conning's evidence helpfully addressed biosecurity matters and set out some suggested improvements to Ms Bower's recommended consent conditions. I have considered her evidence and agree that the Biosecurity Management Plan should specify potential freshwater pests included in the Regional Pest Management Plan and apply to all machinery operating on the site. Machinery should be cleaned before and after operations and any pest fish should be euthanised and not returned to the river.

5.1.5 Effects on wetland water levels

- [49] Submitters were concerned about the potential effect of the gravel extraction works on water levels in the Aniwaniwa Wetland to the east of the Rangitāiki River. The water level in that wetland will be predominantly controlled by the backwater effect of the Aniwaniwa dam (prior to the dam there was no wetland). As noted in section 5.1.8 of this Decision, SGLP's modelled water level change in the river reach between Kopuriki Road Bridge and the delta in Lake Aniwaniwa is 20 to 30mm under normal flow conditions. Consequently, that would be the upper limit of any change in water level in the Aniwaniwa Wetland. BoPRC's technical reviewer Carew Townsend considered a change in water level of such small magnitude to be insignificant as do I.

²⁸ SOE Montgomery, paragraph 2.1.

²⁹ Section 42A Report, section 10.3, page 15.

- [50] In that regard I note that the wetland's "existing environment" is subject to Lake Aniwanuiwa's 200mm operating range under "normal" power generation (namely between RL 146.6 m and 146.8 m). In addition, the Lake levels may be lowered on two occasions each year for up to 10 days by a further 200mm for the purpose of weed control. That typically occurs during late summer or autumn. Consequently, the Aniwanuiwa Wetland is already subject to, and presumably adapted to, water level fluctuations of that magnitude.
- [51] As discussed earlier, there are culverts between the Rangitāiki River and the wetland within the area of the proposed gravel extraction. It is therefore possible that a significantly lower river level resulting from the gravel extraction (which is not the case here) could potentially lead to a lower water level in the wetland. However, I understand that the invert of the culverts will remain under water even if the river drops by 30mm and so there is no potential adverse effect of concern.
- [52] I am satisfied that effects on Aniwanuiwa Wetland water levels do not weigh against a grant of consent.

5.1.6 Effects on recreational activities

- [53] Fish & Game were concerned that the proposed works could disrupt the activity of duck shooters. In response SGLP has agreed to Fish & Game's request to avoid undertaking any works for two weeks either side of the commencement of the duck shooting season which is the first full weekend in May. Consequently, I am satisfied that matter does not weigh against a grant of consent.
- [54] Given the intended short duration of gravel extraction activities I am not concerned about potential adverse effects on other recreational activities in the Rangitāiki River. In that regard I note that SGLP intend to relocate an existing boat access point from the end of the current riverbank access to a site upstream of Kopuriki Bridge on Kopuriki Road. The new location has the advantage of being well away from the work site, having a low velocity eddy to launch boats and high visibility enhancing user security.³⁰ That is therefore arguably a positive effect of the application. The existing boat ramp and parking area will be reinstated following the completion of the gravel extraction.

5.1.7 Māori cultural values and interests

- [55] Despite SGLP liaising with Ngāti Manawa, Ngāti Whare, Ngāi Tūhoe, and Ngāti Awa over the 2021 to 2023 period regarding the proposal and the application being directly notified to Ngāti Rangitīhi, Ngāti Manawa, Ngāti Whare Ngāi Tūhoe, CNI Iwi Collective, Te Rūnanga o Ngāti awa, Ngāti Tūwharetoa and Ngāti Mākinō only one submission was received from Earl Rewi who affiliates to Ngāti Whare. Mr Rewi expressed concern regarding "*impacts on Tuna [eels] and other native species and sediment*". Ms Bowers helpfully liaised with Mr Rewi and on 11 April 2024 he advised her that "*In assessing the Fish Management Plan and the below mentioned recommended conditions, the matters identified in my submission have been adequately addressed and/or resolved.*"³¹ I do not consider the amendments I have made to the recommended conditions adversely affect that outcome.
- [56] Consequently, I am satisfied that Māori cultural values and interests do not weigh against a grant of consent.

5.1.8 Monitoring

- [57] Ms Bowers recommended an extensive monitoring regime, including water quality monitoring for turbidity which I have already discussed in section 5.1.3 of this Decision. The recommended monitoring for RM23-0389-BC.01 also included:
- Water levels in the Aniwanuiwa Wetland (Conditions 15.1 to 15.3);
 - Monthly groundwater monitoring on Healy's Farm (Condition 15.4); and
 - Annual cross sections of the beds of the Rangitāiki River and Lake Aniwanuiwa (Condition 15.4).

³⁰ AEE, Section 3.1.

³¹ Section 42A Report, section 10.1.2.

- [58] I found the extent of the recommended water level monitoring of the Aniwaniwa Wetland and associated reporting to be perplexing. As discussed in section 4.6 of this Decision the wetland is not a 'natural inland wetland' and as discussed in section 5.1.5 any adverse effects on water levels in the wetland will be insignificant. As I noted earlier, SGLP's consultants WSP have modelled the reduction in water levels in the Rangitāiki River that will result from the proposed gravel extraction. Between the Kopuriki Road Bridge and the Rangitāiki River delta at the head of lake Aniwaniwa the modeling predicts a water level drop of only 2-3cm (20 to 30mm) at normal flow conditions of 40 m³/s³². Even if that reduction in river water level translated into an equivalent drop in water levels in the Aniwaniwa Wetland it is difficult to envisage resultant adverse effects occurring that warrant the extent of water level monitoring required under recommended Conditions 15.1 to 15.3 of RM23-0389-BC.01.
- [59] Nevertheless, at the hearing Mr Mulvihill advised that SGLP already monitors the water level in the Aniwaniwa Wetland on a monthly basis either side of Kopuriki Road. SGLP intends to continue that monitoring. On that basis I have imposed conditions requiring the data from the staff gauges in the wetland downstream of Kopuriki Road (there is no point requiring data on the upstream side of Kopuriki Road) to be provided to BoPRC upon request and also annually.
- [60] SGLP was opposed the recommended groundwater monitoring and I agree it is not warranted based on the available evidence about the potential effect of the gravel extraction on normal river flow levels. In her end of hearing response Ms Bowers advised that the groundwater monitoring was no longer recommended as it would be unlikely to reflect water levels in the Rangitāiki River. I therefore decline to impose the groundwater level monitoring.
- [61] This leaves the recommended annual cross section surveys of the beds of the Rangitāiki River and Lake Aniwaniwa. At the hearing SGLP representatives advised that cross sections of both Lake Aniwaniwa and the Rangitāiki River below and above the Kopuriki Road Bridge are already required under the consent for the Aniwaniwa hydroelectric power scheme. Mr Townsend advised that the BoPRC also has a two-yearly cross section monitoring programme on the Rangitāiki River. I see no need to duplicate that existing monitoring and so have not imposed recommended condition 15.4 of RM23-0389-BC.01.

5.2 National environment standards and other regulations

- [62] Apart from the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 in relation to 'natural inland wetlands' (which I addressed earlier), no other relevant national environmental standards or regulations were brought to my attention³³ and I am not aware of any.

5.3 National policy statements

- [63] The NPSFM 2020 as amended in 2024 is applicable and is the superior statutory instrument. My assessment follows.
- [64] The sole Objective 2.1(1) of the NPSFM is:

The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems*
- (b) second, the health needs of people (such as drinking water)*
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future*

- [65] I have already found that the potential adverse effects of the proposed gravel extraction and debris island removal works are either no more than minor or do not otherwise weigh against a grant of consent. Consequently, the application gives effect to Objective 2.1(1)(a). Objective 2.1(1)(c) is relevant as the intent

³²Kopuriki Flood Modelling, WSP, 20 May 2020, Page13 (Appendix C of the AEE)

³³ Ms Bowers advised that the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 (NES-SHDW) are not relevant here.

of the proposal is to enable SGLP to effectively operate the Lake Aniwanuiwa hydroelectric power scheme and reduce (albeit to a minor degree) upstream flooding in the Rangitāiki River.

- [66] Given that the application involves instream works I consider the most relevant NPSFM policies to be Policies 1, 2, 7, 9, 10 and 15.
- [67] Policy 1 is to manage freshwater in a way that gives effect to Te Mana o te Wai. The NPSFM states that Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. This largely replicates NPSFM Objective 2.1 which I addressed above.
- [68] Policy 2 is that tangata whenua are actively involved in freshwater management (including decision making processes) and Māori freshwater values are identified and provided for. In this case that was achieved through the applicant's consultation with Ngāti Manawa, Ngāti Whare, Ngāi Tūhoe, and Ngāti Awa.
- [69] Policy 7 is to avoid the loss of river extent and values to the extent practicable. Restricting gravel extraction to the true right side of the Rangitāiki River will achieve that outcome. Policy 9 is to protect the habitats of indigenous freshwater species. The evidence is that at risk and declining native fish species (Torrentfish, Inanga and Giant Kokopu) were not likely to be present at the location of works. Policy 10 is to protect the habitat of trout. Fish & Game are satisfied that is achieved by restricting the gravel extraction to the true right side of the Rangitāiki River.
- [70] Policy 15 is that communities (in this case SGLP) are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with the NPSFM. Granting the application subject to a suite of appropriate conditions will achieve that outcome.
- [71] In overall terms I find that approving the application, subject to a suite of appropriate conditions of consent, would be consistent with the NPSFM.
- [72] The National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG) is also relevant. Given the intent of the works is to enable SGLP to effectively operate the Lake Aniwanuiwa hydroelectric power scheme, the proposal is clearly consistent with that statutory instrument.

5.4 Regional Policy Statement, RNRP and RRGMP

- [73] Ms Bowers assessed³⁴ the application against the Regional Natural Resources Plan (RNRP) and the Regional River Gravel Management Plan (RGMP). I understand her assessments concluded that the application was consistent with the relevant provisions of those plans. I agree with and adopt her assessments. Mr Fergusson also undertook comprehensive assessments of the RNRP³⁵ and the RGMP³⁶ and I understand him to have reached the same conclusion as Ms Bowers.
- [74] Regarding the Regional Policy Statement, Ms Bowers stated that its objectives and policies were consistent with the objectives and policies of the RNRP and RGMP, and so she did not consider the RPS further. That seemed like an acceptable and pragmatic approach to me. Mr Fergusson³⁷ undertook a more comprehensive assessment of the RPS, concluding that the proposal was consistent with the objectives and policies of the RPS. I have read and agree with his assessment and so I adopt it.

5.5 RMA s105 and s107

- [75] Regarding s105 matters, SGLP has no option but to undertake the proposed gravel extraction and debris island removal in the locations proposed. Regrading section 107, while the works will result in a conspicuous change in the colour or visual clarity of the Rangitāiki River and Lake Aniwanuiwa as a result of

³⁴ Section 42A Report, section 11.1.1 and 11.1.2 respectively.

³⁵ SOE Fergusson, paragraphs 8.27 to 8.33.

³⁶ SOE Fergusson, paragraphs 8.34 to 8.36.

³⁷ SOE Fergusson, paragraphs 8.9 to 8.26.

suspended sediment, however that is an unavoidable effect. More importantly, the discharge of sediment causing that effect is both of a temporary nature and arguably associated with necessary maintenance work. Consequently, I may grant the consents pursuant to s107(2).

5.6 Other matters

[76] Ms Bowers assessed several iwi management plans. I agree that the proposal does not offend the provisions of those plans, evidenced by the absence of submissions from the notified parties comprising Ngāti Rangitīhi, Ngāti Manawa, Ngāi Tūhoe, CNI Iwi Collective, Te Rūnanga o Ngāti awa, Ngāti Tūwharetoa and Ngāti Mākinu.

6 Part 2 matters

[77] Following the Court of Appeal's judgement on *RJ Davidson Family Trust v Marlborough District Council* I have not separately assessed Part 2 matters as I consider that the relevant plan provisions adequately give effect to Part 2 and so assessing the Part 2 matters "would not add anything to the evaluative exercise".

7 Determination

[78] Pursuant to the powers delegated to me by the Bay of Plenty Regional Council under section 34A(1) of the Resource Management Act 1991, I record that having considered the evidence and legal submissions and the BOPRC Section 42A Report; and having considered the various requirements of the RMA, I find that:

- a) Based on the evidence, the actual and potential adverse effects of the application are either no more than minor or can be suitably avoided, remedied or mitigated by readily enforceable consent conditions;
- b) The application if granted will have positive effects; and
- c) The application is not inconsistent with the provisions of the relevant existing statutory instruments.

[79] I therefore **grant** the application lodged by Southern Generation Limited Partnership (SGLP) for the extraction of gravel, sediment and debris from the bed of the Rangitāiki River and Lake Aniwanīwa.

[80] My reasons are set out above and are expanded upon in the body of this Decision.

8 Consent conditions

[81] Ms Bowers recommended a suite of conditions as part of her Section 42A Report.

[82] At the hearing I posed a number of questions to the applicant regarding the recommended conditions. Following their responses I indicated that I considered a wide range of amendments were required to the recommended conditions. I suggested a process whereby I would issue a final decision on the substantive matters related to the applications along with a 'draft' suite of amended conditions. The parties who attended the hearing, along with the Department of Conservation³⁸, would then be provided an opportunity to comment on the conditions after which I would issue a final suite of conditions.

[83] The SGLP and the Council representatives were amenable to that suggestion.

[84] Consequently, I have considered the recommended conditions and the answers to my queries on them provided by the parties to the hearing, and I have undertaken my own assessment of their clarity, certainty, practicality and necessity.

[85] In doing so I was mindful of the 'Newbury' tests which require that any condition must:

- Be for a resource management purpose, not for an ulterior one;
- Fairly and reasonably relate to the activity to be authorised; and
- Not be so unreasonable that no reasonable planning authority could have imposed them.

³⁸ Although Department representatives did not attend the hearing their tabled letter of 13 May 2024 expressed support for a number of the conditions that I consider require amendment or deletion.

- [86] I was also mindful of s108AA(1) of the RMA which states that conditions must be directly connected to an adverse effect of the activity on the environment, unless agreed to by the applicant.
- [87] I have made a number of amendments to the Ms Bowers' recommended conditions and the more substantive ones include:

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- Replacing the word "shall" with "must" to reflect a more contemporary drafting style;
- Referring consistently to the Chief Executive of the Bay of Plenty Regional Council or delegate;
- Amending recommended condition 3.1 to refer to Te Rūnanga o Ngāti Manawa (based on SGLP's consultation with them) and Te Runanga o Ngāti Whare (submitter) as the other parties did not submit on the application;
- Clarifying the intent of conditions so that they are practically achievable;
- Omitting unnecessary qualifying phrases from the conditions;
- Omitting the duplication of conditions between the three consent documents;
- Simplifying condition 3 and particularising it to the activities and locations for which consent is sought;
- Amending condition 5.2.2 to refer to 10,000 cubic metres;
- Separating recommended condition 5.3(2) into two distinct, practical and enforceable requirements;
- Omitting what recommended condition 5.4.3 as that is axiomatic;
- Omitting recommended condition 5.6.4 as it duplicated earlier requirements;
- Amending recommended condition 6.1 to provide a six-week window to complete the gravel extraction and a two-week window to undertake the debris island removal;
- Omitting recommended condition 6.1.c as it duplicated the consent duration limitation in recommended condition 19.1;
- Omitting recommended condition 6.2.3 and instead applying condition 6.2.2 to all debris island removal activities;
- Making recommended condition 6.3 consistent with the format of condition 6.1;
- Omitting recommended condition 6.3.3 as it duplicated the new chapeau of condition 6.3;
- Omitting part of recommended condition 6.5 as it unnecessarily imposed work duration constraints over and above those specified in earlier conditions;
- Merging recommended conditions 6.1 and 6.2 (now 6.1) and merging conditions 6.3, 6.4, 6.4 and 6.6 (now 6.2);
- Relocating recommended condition 6.5 to be part of what is now condition 6.2;
- Omitting recommended conditions 7.2.2 and 7.2.3 as they unnecessarily duplicated condition 7.3 regarding the purpose and content of the River Works Management Plan;
- Stating recommended condition 7.3.6 as a standalone condition;
- Amending recommended conditions 8.1 to 8.3 to more clearly set out the requirements for nesting protected birds, including threatened or at-risk indigenous birds, while omitting any unnecessary duplication of other conditions;
- Substantially recasting the Fish Management Plan conditions to require the FMP that has already been prepared by Ecological Solutions to be provided to Te Rūnanga o Ngāti Manawa and Te Runanga o Ngāti Whare for their comments, with the finalised FMP reflecting any comments received within a reasonable period of time. The conditions are also amended to include the particular references to aquatic fauna as sought by Forest and Bird. Recommended condition 9.5 is omitted because the nature of the works for which consent is sought cannot impede fish passage because only the true right-hand portion of the Rangitāiki River is being dredged;

- Omitting recommended conditions 10.2, 10.4, 10.5 and 10.7 as they either duplicated earlier conditions or conditions in RM23-0389-LC.01, and amending the remaining conditions to particularise them to the Rangitāiki River and Lake Aniwanuiwa;
- Omitting recommended conditions 12, 13 and 14 in light of my findings in relation to water quality and inserting a new condition that incorporates current BoPRC gravel extraction management practice in relation to water quality. The amendments include omitting recommended condition 13.2 as its clauses did not relate to the potential effects of the activity, noting that in any case those RMA section 107 matters have necessarily been assessed by me as neither not likely to occur, or as allowable as temporary effects, as part of my overall assessment of the application;
- Omitting recommended condition 15 and instead requiring SGLP's existing wetland staff gauge readings to be continued and requiring that data to be provided to the BoPRC on request and annually. As discussed in section 5.1.8 of this Decision, SGLP is already required to undertake annual cross-section surveys of the Rangitāiki River between the Kopuriki Road Bridge and the delta in Lake Aniwanuiwa under the conditions of consent for the Aniwanuiwa hydroelectric power scheme, so there is no need to duplicate that existing regulatory requirement;
- Amending recommended condition 16 to refer to the Lake Aniwhenua Gravel and Debris Removal – Biosecurity Management Plan dated March 2024 prepared by Ecological Solutions and requiring SGLP to provide that document to Forest and Bird for their comments, with the finalised document reflecting any comments received within a reasonable period of time. I have also amended recommended conditions 16.2.1 and 16.2.3 to impose actual enforceable requirements and moved what was condition 16 to the end of that suite of conditions; and
- Omitting advice notes that are now superfluous.

RM23-0389-DC.01

- Omitting recommended condition 4.1 relating to “bed disturbance” as it unnecessarily duplicated condition 4.1 in RM23-0389-BC.01. The omitted references to application documents are duplicated in RM23-0389-BC.01. Importantly in that regard, it is the Rangitāiki River and Lake Aniwanuiwa bed disturbance activities authorised by RM23-0389-BC.01 that will give rise to sediment discharges within those water bodies; and
- Amending recommended condition 4.2 so that it refers to the sole “effects based” condition in the consent (Condition 5.1) and the conditions imposed by RM23-0389-LC.01. The omitted references to application documents are duplicated in RM23-0389-LC.01.

RM23-0389-LC.01

- Amending recommended condition 3.1.1 to refer to Te Rūnanga o Ngāti Manawa (based on SGLP's consultation with them) and Te Runanga o Ngāti Whare (who were a submitter);
- Amending recommended condition 6.1.1 so that it relates to stabilising the ground required for earthworks once the gravel extraction and debris island removal works are completed;
- Omitting recommended conditions 6.2.3, 9.1.3 and 11.1.5 as conditions cannot bind third parties;
- Omitting recommended condition 8.3 as it duplicated recommended condition 9.2;
- Omitting recommended conditions 9.7.2 and 9.7.3 as they did not appear to be relevant to the stockpiling of wet gravel and debris island debris and from my site visit is evident that there are no sensitive activities in the vicinity that would be subject to any nuisance dust discharges from dry stockpiles of river gravel or debris;
- Omitting recommended conditions 10.1 to 10.2 (nesting birds); 12 (fish management plan); and 14 (signage) because they unnecessarily duplicated conditions in RM23-0389-BC.01; and
- Amending recommended condition 11.1.2 (now 10.1.1) to refer to 5 working days instead of 3 months as the Riparian Planting Plan, which should be a straight forward document, can be prepared while the earthworks are being undertaken. I have also required any riparian planting to be undertaken as soon as practicable.

[88] The conditions I have imposed are attached as Appendix 1 to this Decision.

- [89] The conditions refer to BoPRC Plans
- BOPRC Consent Plan RM23-0389/01;
 - BOPRC Consent Plan RM23-0389/02;
 - BOPRC Consent Plan RM23-0389/03; and
 - BOPRC Consent Plan RM23-0389/04.
- [90] I direct the Council to attach those Plans to the conditions of consent contained in Appendix 1 before this Decision is distributed to SGLP and the submitters.
- [91] I have omitted the earthworks condition that referred to BOPRC Consent Plan RM23-0389/05 and so that plan is no longer required.
- [92] As indicated at the hearing, I direct that this Decision to be provided to the Section 42A Reporting officer (Ms Bowers), submitter Colin Holmes and the submitter representatives for:
- Eastern Region Fish and Game;
 - Eastern Region Forest and Bird Protection Society; and
 - Department of Conservation
- [93] Those parties have until Friday 24 May 2024 to provide any comments they have on the amended conditions to the Hearing Secretary (by email to Rachael.Musgrave@boprc.govt.nz).
- [94] Comments must be limited to the wording of the conditions (identifying errors, uncertain or inconsistent provisions) and should not attempt to relitigate any of the substantive findings that I have made as set out in sections 4.5, 4.6, 5 and 6 of this Decision.
- [95] I will review any comments received and issue a final suite of conditions thereafter.

Signed by the commissioner:



Rob van Voorthuysen

Dated: 16 May 2024

Appendix 1: Draft Consent Conditions

Resource Consent



Resource Consent RM23-0389-AP

Southern Generation Limited Partnership

Consent(s) to:

RM23-0389-BC.01	Disturb Lake or River
RM23-0389-DC.01	Discharge to Water
RM23-0389-LC.01	Earthworks or Excavation



The consent(s) are subject to the conditions specified on the attached schedule(s) for each activity. Advice notes are also provided as supplementary guidance, and to specify additional information to relevant conditions.

A handwritten signature in black ink, appearing to be "TCM".

Consent Number: RM23-0389-BC.01

Bay of Plenty Regional Council

Resource Consent

A resource consent:

- **Under section 13(1)(b) and 13(2)(a) of the Resource management Act 1991 and Rule 4 Bay of Plenty River Gravel Management Plan to undertake a discretionary activity being the excavation and extraction of river gravel from the bed of the Rangitāiki River and Lake Aniwanīwa.**
- **Under section 13(1)(b) and 13(2)(a) of the Resource management Act 1991 and Rule BW R36 of the Bay of Plenty Regional Natural Resources Plan to undertake a discretionary activity being the excavation and disturbance of the bed of the Rangitāiki River and Lake Aniwanīwa.**

subject to the following conditions:

1 Purpose

- 1.1 The purpose of this resource consent is to authorise and set conditions for the gravel extraction, and disturbance to the bed associated with gravel, sediment and vegetation extraction from the bed of the Rangitāiki River and Lake Aniwanīwa to reduce flooding of land upstream.

2 Location

- 2.1 The activity authorised by this resource consent is located at:

- 1 Rangitāiki River and Lake Aniwanīwa, Galatea.
- 2 Gravel extraction works are adjacent to 59 Kopuriki Road, Galatea, as shown on BOPRC Consent Plan RM23-0389/01; and
- 3 Debris island removal works are adjacent to 3848 Galatea Road, Galatea, as shown on BOPRC Consent Plan RM23-0389/02.

3 Notification of Works

- 3.1
- 1 No less than five working days prior to the commencement of gravel extraction works, the consent holder must notify (in writing) the representatives of Te Rūnanga o Ngāti Manawa and Te Rūnanga o Ngāti Whare (see Advice Note 4 for contact details) for the purpose of advising the date and location of fish salvage activities as specified in by the certified Fish Management Plan referred to in Condition 9 of this consent.
 - 2 Evidence of the notification, must be kept and provided to the Chief Executive of the Bay of Plenty Regional Council or delegate within 48 hours of a request to do so (see Advice Note 2).
 - 3 Prior to the commencement of gravel extraction and prior to the removal of debris islands, the consent holder must contact the Te Rūnanga o Ngāti Manawa and Te Rūnanga o Ngāti Whare representatives involved in the Rangitāiki Elver Trap and Transfer Programme and request that the release of any transferred elvers be undertaken upstream of the gravel extraction works area.

- 4 Evidence of the contact and request must be kept and provided to the Chief Executive of the Bay of Plenty Regional Council or delegate within 48 hours of a request to do so (see Advice Note 2).
- 3.2 No less than five working days prior to the initial commencement of activities authorised by this consent, the consent holder must request (in writing) a site meeting with the Chief Executive of the Bay of Plenty Regional Council or delegate (see Advice Note 2). This request must include details of who is to be responsible for site management and compliance with consent conditions on behalf of the consent holder.
- 3.3 No less than 24 hours prior to the start of river gravel extraction works or the debris island removal works, the consent holder must notify the Chief Executive of the Bay of Plenty Regional Council or delegate of the intention to start those works (see Advice Note 2).
- 3.4 No less than five working days following the completion of the river gravel extraction works and also no less than five working days following the completion of debris island removal works, the consent holder must on each occasion notify and request a site meeting (in writing) with the Chief Executive of the Bay of Plenty Regional Council or delegate (see Advice Note 2).

4 River Gravel and Debris Island Removal Works

- 4.1 Unless otherwise required by conditions of this consent, all river gravel extraction and debris island removal work must be carried out in accordance with the following:
 - 1 The updated Resource Consent Application titled 'Aniwhenua Hydroelectric Power Scheme, Removal of Gravel and Debris Islands of Lake Aniwhenua, 16 October 2023' received by the Bay of Plenty Regional Council on 26 October 2023;
 - 2 The response to further information titled 'SGLP RM23-0389-AP Further information (S92 RMA)' received by the Bay of Plenty Regional Council on 11 March 2024;
 - 3 The response to further information titled 'Lake Aniwhenua Ecology S92' received by the Bay of Plenty Regional Council on 11 March 2024; and
 - 4 The River Works Management Plan certified in accordance with Condition 7.2.

5 Limits on Scale of the Works and Disturbance

- 5.1 This consent authorises:
 - 1 River gravel extraction activity at the location and extent described in Condition 5.2; and
 - 2 Debris island removal activity at the location and extent described in either Condition 5.3 or 5.4, using either of the methods described in certified River Works Management Plan required by Condition 7.2 which are:
 - a) Excavation of vegetation and sediment with an excavator; or
 - b) Vegetation removal only using a grapple and winch operating from dry land.
- 5.2 The river gravel extraction must be carried out in accordance with the following:
 - 1 At the location identified in BOPRC Consent Plan RM23-0389/01;
 - 2 Must not exceed a volume of 10,000 cubic metres;
 - 3 Be located against the true right bank of the Rangitāiki River;

- 4 Be one continuous excavation area of a maximum 600 metres (m) long, 15 m wide, and approximately 1.5 m below the current bed level;
 - 5 The upstream extent of excavation must start 20 m downstream of Kopuriki Road Bridge;
 - 6 Be no closer than 1 m to the Rangitāiki riverbank; and
 - 7 Be carried out using an excavator located on the true right bank of the Rangitāiki River.
- 5.3 Where works on a debris island require earth moving machinery to work within Lake Aniwanuiwa, the consent holder must undertake those works in accordance with the following:
- 1 At the location identified in BOPRC Consent Plan RM23-0389/02.
 - 2 Traversing of the Lake bed by earth moving machinery must be minimised to the extent practicable and all vehicles and earth moving machinery must be kept out of the Lake bed when not actively engaged in debris island removal activities.
- 5.4 Where works on a debris island are limited to the removal of vegetation using a winch and grapple system the consent holder must complete those works in accordance with the following:
- 1 At the location identified in BOPRC Consent Plan RM23-0389/02.
 - 2 The debris must be lifted out of the water onto dry land and must not be dragged up the banks of Lake Aniwanuiwa.
 - 3 Machinery must not enter the water within Lake Aniwanuiwa or be located on a debris island, other than as necessary to enable the operation of the winch and grapple system.
- 5.5 The disturbance of the bed of the Rangitāiki River or Lake Aniwanuiwa must be limited to the extent necessary to carry out the activities authorised by this consent.
- 5.6 The consent holder must only access the areas of work as follows:
- 1 River gravel extraction access must be undertaken from the true right bank of the Rangitāiki River as identified in BOPRC Consent Plan RM23-0389/04;
 - 2 Debris island removal access using a winch and grapple system must be undertaken from the closest adjacent dry land;
 - 3 Debris islands to be removed by way of earth moving machinery must be accessed from dry land using a track depicted in the River Works Management Plan required by Condition 7.2.

6 Limits on Timing and Duration of Works

- 6.1 Unless otherwise agreed in writing by the Chief Executive of the Bay of Plenty Regional Council or delegate:
- 1 River gravel extraction must be completed within six weeks of the commencement of those works.
 - 2 Debris island removal must be completed within two weeks of the commencement of those works.
 - 3 River gravel extraction works must only occur between the period of early June (immediately following Kings Birthday weekend) to 31 August of the same year.

- 4 Debris island removal works must only occur in a period when the annual water level drawdown of Lake Aniwanuiwa is carried out by Southern Generation Limited Partnership (or their successor) for the purpose of weed control, and must additionally only be carried out between the period of 1 January until two weeks prior to the opening weekend of the waterfowl hunting season (the first full weekend of May) of the same year.
- 6.2 Unless otherwise agreed in writing by the Chief Executive of the Bay of Plenty Regional Council or delegate:
- 1 All works must only be carried out between the hours of 7:00 am and 5:30 pm.
 - 2 All works must only be carried out over a maximum period of six consecutive days, followed by a minimum 24 hour stand down period where no works take place. Works can recommence following the stand down period.
 - 3 Gravel extraction works must only be carried out when the Rangitāiki River is experiencing normal or low flows for that time of year.
 - 4 Gravel extraction and debris island removal works must only be initiated during a period of forecast fine weather (where heavy rain is not forecast in the following three days).
 - 5 If after gravel extraction or debris island removal works commence, weather forecasting subsequently identifies an impending significant flood or rainfall event, any loose materials must be secured, gravel excavation and debris island works must be suspended and machinery and materials must be removed from areas of potential inundation. Works may resume when weather conditions return to normal.
 - 6 No activities authorised by this consent are to be carried between the period starting two weeks prior to and ending two weeks after the opening weekend of waterfowl hunting season which occurs on the first full weekend of May.

7 River Works Management Plan

- 7.1 The consent holder must undertake all gravel extraction and debris island removal works in accordance with a certified River Works Management Plan (RWMP) required by Condition 7.2.
- 7.2 No less than 20 working days prior to commencing any gravel extraction or debris island removal works, the consent holder must submit a final RWMP prepared by a suitably qualified and experienced professional to the Chief Executive of the Bay of Plenty Regional Council or delegate for written certification. Works must not start until written certification of the final RWMP has been received.
- 7.3 The final RWMP submitted for certification must:
- 1 Be in general accordance with the draft RWMP on pages 1-4 of the response to further information titled 'SGLP RM23-0389-AP Further information (S92 RMA)' received by the Bay of Plenty Regional Council on 11 March 2024;
 - 2 Be updated in accordance with the conditions of this consent;
 - 3 Be in accordance with the 'National Works in Waterways Guidelines 2021 (Ministry for the Environment);
 - 4 Contain a contingency plan that details methods for halting gravel extraction and debris island removal and implementing measures to reduce potential adverse effects during unplanned events; including extreme weather events or high river flows.
 - 5 Contain a Spill Management and Response Plan.

7.4 Any subsequent variation of the RWMP must be submitted to the Chief Executive of the Bay of Plenty Regional Council or delegate for written certification.

8 Bird Nesting

8.1 Not more than five working days prior to the commencement of any debris island removal works intended to be undertaken during the period of 1 January to 31 March, the consent holder must have a suitably qualified and experienced ecologist conduct a survey of the debris islands intended to be removed for the presence of nesting Protected birds (including Threatened or At-Risk indigenous birds) and record the results of the survey in a written report.

8.2 The consent holder must provide the bird survey report required under Condition 8.1 to the Chief Executive of the Bay of Plenty Regional Council or delegate within five days of the bird survey being completed.

8.3 The consent holder must minimise the disturbance of all nesting sites identified in the bird survey by:

- 1 Clearly delineating a 30-metre setback zone around each nest using visible markers; and
- 2 Not carrying out any works within any setback zone until any nesting chicks have fully fledged as confirmed by a suitably qualified and experienced ecologist.

8.4 The consent holder must prepare a map (or annotated aerial photograph) identifying all identified nests and setback zones and make that map or aerial photograph available to all persons undertaking debris island removal activities.

9 Fish Management Plan

9.1 1 The consent holder must have a suitable qualified and experienced freshwater ecologist finalise the Lake Aniwhenua Gravel Extraction Fish Management Plan dated March 2024 prepared by Ecological Solutions (FMP) and submit that Plan to the Chief Executive of the Bay of Plenty Regional Council or delegate for certification (see Advice Note 2).

2 The purpose of the finalised FMP is to describe how fish salvage and relocation will be undertaken as part of gravel extraction and debris island removal activities.

3 The consent holder must provide the March 2024 FMP to Te Rūnanga o Ngāti Manawa and Te Runanga o Ngāti Whare and invite (in writing) them to comment on its contents. The finalised March 2024 FMP must have regard to any comments that are received within 20 working days of the invitation being served.

9.2 The finalised FMP must require extracted gravels and debris island material, and the area adjacent to any deposition of that material on dry land, to be inspected for eels, other native fish, freshwater crayfish (Koura) and freshwater mussels (Kakahi), with any of that fauna being salvaged and returned to the Rangitāiki River or Lake Aniwhenua.

9.3 All fish salvage operations must be carried out in accordance with certified FMP by personnel appropriately trained in fish salvage operations and be overseen by a suitable qualified and experienced freshwater ecologist.

9.4 The consent holder must keep a copy of the certified FMP on site during gravel extraction and debris island removal activities.

10 General Works

- 10.1 The consent holder must ensure that following river gravel extraction works, the batters in the river channel are left with a gradient of no greater than 1:2 and the bed is left rough and not uniform and smooth.
- 10.2 When extracting gravel from the bed of the Rangitāiki River or removing debris islands from Lake Aniwanuiwa, the consent holder must avoid damaging the banks of those waterbodies to the extent practicable.
- 10.3 When not undertaking gravel extraction or debris island removal works, the consent holder must ensure that no machinery, plant, or other equipment used for that purpose is left in a position that is subject to inundation by flood waters.
- 10.4 The consent holder must ensure that no fuel storage or machinery refuelling occurs where fuel could enter the Rangitāiki River or in the event of a fuel spillage.

11 Public Access

- 11.1 Public access to and along the berm of the Rangitāiki River must be maintained, other than when river gravel extraction or debris island removal works are being undertaken.

12 Rangitāiki River Water Quality

- 12.1 Rangitāiki River gravel extraction works must be undertaken in the following manner:
- 1 Following each individual operation of the excavator to scoop out gravel, the excavator operation must pause until any suspended sediment plume caused by the extraction has visibly dissipated.
 - 2 Once the suspended sediment plume has visibly dissipated, the next operation of the excavator to scoop out gravel can be undertaken.

13 River Cross Section Monitoring

- 13.1 The consent holder must continue to undertake monthly readings of the water level in the Aniwanuiwa Wetland at staff gauges 2, 4 and 6 located downstream of Kopuriki Road as set out below:

Staff Gauge	Northing NZTM	Easting NZTM
2	5749141 mN	1930196 mE
4	5749188 mN	1930126 mE
6	5749387 mN	1929745 mE

- 13.2 The staff gauge data must be provided to the Chief Executive of the Bay of Plenty Regional Council or delegate upon request and additionally it must be collated annually and be provided to the Chief Executive of the Bay of Plenty Regional Council or delegate in June for the duration of this consent (see Advice Note 2).

14 Biosecurity

- 14.1 1 The consent holder must have a suitably qualified and experienced freshwater ecologist finalise the Lake Aniwhenua Gravel and Debris Removal – Biosecurity Management Plan dated March 2024 prepared by Ecological Solutions (BMP) and submit that Plan to the

Chief Executive of the Bay of Plenty Regional Council or delegate for certification (see Advice Note 2).

- 2 The purpose of the BMP is to avoid as far as practical the introduction of unwanted, pest or biosecurity risk species (flora or fauna) including freshwater pests included in the Bay of Plenty Regional Pest Management Plan 2020–2030 (RPMP), including Elodea, Egeria, Lagarosiphon, Freshwater Golden Clam, Alligator weed, Hornwort, Catfish, Perch, Rudd and Tench.
- 3 The consent holder must provide the March 2024 BMP to the Eastern Bay of Plenty Branch of the Royal Forest and Bird Protection Society NZ Inc. and invite (in writing) them to comment on its contents. The finalised March 2024 BMP must have regard to any comments received within 10 working days of the invitation being served.

14.2 Gravel extraction and debris island removal works must not start until written certification of the finalised BMP has been received.

14.4 Any pest fish removed from the Rangitāiki River or Lake Aniwanīwa must be euthanised and not returned to those waterbodies.

14.5 The consent holder must ensure all vehicles and equipment are free of infestation by any unwanted, pest or biosecurity risk species (flora and fauna) identified in the Bay of Plenty Regional Pest Management Plan 2020–2030 (RPMP) or any successor Regional Pest Management Plan and must keep written records of the equipment having been inspected and where necessary appropriately treated by way of best available Biosecurity NZ practice. A copy of the records must be made available to the Chief Executive of the Bay of Plenty Regional Council or delegate within 48 hours of a request to do so.

14.6 Machinery and vehicles used to undertake gravel extraction and debris island removal works must be clean and well-maintained. In particular:

- 1 Machinery and vehicles must be water blasted to remove any visible fuels, oils, dirt, seeds and other contaminants before entering the works site;
- 2 Machines to be used in water must be fitted with sealed bearings and grease caps for moving parts; and
- 3 All machinery is to be regularly maintained (including hydraulic hoses) in such a manner so as to minimise the potential for leakage of contaminants.

14.7 The consent holder must ensure all vehicles and equipment are cleaned before arriving at the Rangitāiki River or Lake Aniwanīwa work sites and are cleaned before leaving those sites.

14.8 The consent holder must undertake all works authorised by this consent in accordance with the certified BMP required by Condition 14.2.

15 Signage

15.5 Before the start of works authorised by this consent, the consent holder must erect a prominent sign adjacent to the main entrance to the river gravel extraction works site and maintain it throughout the period of the works. The sign must clearly display, as a minimum, the following information:

- 1 The consent holder;
- 2 The main site contractor;
- 3 A 24-hour contact telephone number for the consent holder or appointed agent;

- 4 A clear explanation that the contact telephone number is for the purpose of receiving complaints and information from the public about dust nuisance or any other issue resulting from the exercise of this resource consent.

15.6 The consent holder must install suitable signage both upstream and downstream of the works areas to warn of potential navigational hazards.

16 Review of Consent Conditions

16.1 The Bay of Plenty Regional Council may, once per year during either May or November, serve notice on the consent holder of its intention to review the conditions of this resource consent. The purpose of the review is to modify conditions to:

- 1 Deal with any adverse effect on the environment that occurs as a result of the exercise of this consent, and which is appropriate to deal with at a later stage; and/or
- 2 To ensure that monitoring and reporting is commensurate to the level of environmental effects and risks; and/or
- 3 Respond to any unforeseen adverse effects on resources of significance or special value to tangata whenua, which may arise from the exercise of the consent; and/or
- 4 The fair and reasonable costs associated with any such review must be recovered from the consent holder.

17 Term of Consent

17.1 This consent expires three years from its date of commencement.

Advice Notes

- 1 An appropriately qualified person to undertake the bird identification is considered to be anyone with evidence of recognised qualifications and or relevant work experience (paid or voluntary).
- 2 Reporting, notification and submission of plans required by conditions of this consent are to be directed (in writing) to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatane 3158 or email notify@boprc.govt.nz, this notification must include the consent number RM23-0389.BC.01.
- 3 This consent does not authorise the holder to modify or disturb any archaeological or historic sites within the area affected by this consent. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by this operation, written authorisation should be obtained from Heritage New Zealand before any damage, modification or destruction is undertaken.
- 4 The Regional Council is able to advise of contact details for the relevant iwi authority.
- 5 This consent does not authorise any damming or diversion of water at the activity site. Any such action may require further approval unless a rule in a regional plan expressly allows the dam or diversion.
- 6 The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.
- 7 The consent holder is advised that non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.

- 8 The consent holder must pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with section 36 of the Resource Management Act 1991.
- 9 The Resource Consent hereby authorised is granted under the Resource Management Act 1991 and does not constitute an authority under any other Act, Regulation or Bylaw.
- 10 The Regional Natural Resources Plan rules on the clearance of vegetation excludes the clearance of pest plant species. Please contact the Bay of Plenty Biosecurity Team to discuss the removal of the species pest plant species that are identified in the Regional Pest Management Plan 2020-2030.
- 11 Should the site in respect of which this consent is granted be sold, a transfer of the consent to the new owner or occupier of the site must take place. The named consent holder will be responsible for any breach of conditions and compliance costs relating to the consent which occur before the transfer of the consent. The transfer of the holder's interest in a consent has no effect until written notice of the transfer is given to the Bay of Plenty Regional Council.
- 12 Regarding Condition 9.1.3, the chairperson of each iwi may delegate responsibilities to comment on the FMP to other people within the iwi and/or hapū or to other iwi and/or hapu (listed above) as they deem appropriate.
- 13 This consent does not authorise access onto or use of private property, the fish relocation site may require prior landowner approval.

Consent Number: RM23-0389-DC.01

Bay of Plenty Regional Council

Resource Consent

A resource consent:

- **Under section 15(1)(b) of the Resource Management Act 1991 and Rule DW R8 of the Bay of Plenty Regional Natural Resources Plan to undertake a discretionary activity being to discharge sediment into water, and discharge sediment contaminated stormwater to land where it may enter water.**

subject to the following conditions:

1 Purpose

1.1 The purpose of this resource consent is to authorise and set conditions for the:

- 1 Discharge of sediment into water from the disturbance associated with excavation in the bed of the Rangitāiki River and Lake Aniwanuiwa.
- 2 Discharge of sediment contaminated stormwater to land where it may enter the Rangitāiki River, Lake Aniwanuiwa or the Lake Aniwanuiwa Wetland, as a result of earthworks for track establishment, river gravel deposition and gravel and sediment stockpiling on land.

2 Location

2.1 The activity authorised by this resource consent is located at:

- 1 On the land at 59 Kopuriki Road, Galatea; and
- 2 As shown on BOPRC Consent Plan RM23-0389/01.

3 Notification of Works

3.1 No more than five working days following removal of gravel stockpiled on the bank of the Rangitāiki River under consent RM23-0389-BC.01, but prior to removal of the erosion and sediment controls for that stockpile, the consent holder must notify and request (in writing) a site meeting the Chief Executive of the Bay of Plenty Regional Council or delegate.

4 Discharge Management

4.1 All sediment contaminated stormwater generated on site must be treated before being discharged to land where it may enter water in accordance with the condition 5.1 of this consent and the conditions of consent RM23-0389-LC.01.

5 Discharge Quality

5.1 Stormwater discharged must be substantially free of floatable solids, oil and grease.

6 Term of Consent

6.1 This consent expires three years from its date of commencement.

7 Review of Consent Conditions

- 7.1 1 The Bay of Plenty Regional Council may, once per year during either May or November, serve notice on the consent holder of its intention to review the conditions of this resource consent. The purpose of the review is to deal with any unforeseen adverse environmental effect which may result from the discharge.
- 2 The consent holder must pay the fair and reasonable costs associated with a review.

Advice Notes

- 1 Should the site in respect of which this consent is granted be sold, a transfer of the consent to the new owner or occupier of the site must take place. The named consent holder will be responsible for any breach of conditions and compliance costs relating to the consent which occur before the transfer of the consent. The transfer of the holder's interest in a consent has no effect until written notice of the transfer is given to the Bay of Plenty Regional Council.
- 2 Send all monitoring reports and notification required by these conditions to the Regulatory Compliance Manager, PO Box 364, Whakatāne 3158, or email compliance_data@boprc.govt.nz (compliance reporting) or notify@boprc.govt.nz (compliance notifications). Include the consent number RM23-0389-DC.01.
- 3 The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.
- 4 Non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.
- 5 This consent is granted under the Resource Management Act 1991, and is not an authority under any other act, regulation, or bylaw.
- 6 The consent holder must pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with resource management legislation.

Consent Number: RM23-0389-LC.01

Bay of Plenty Regional Council

Resource Consent

A resource consent:

- **Under section 9(2)(a) of the Resource management Act 1991 and Rule LM R4 of the Bay of Plenty Regional Natural Resources Plan to undertake a discretionary activity being to carry out earthworks within 20 m of a water body.**

subject to the following conditions:

1 Purpose

- 1.1 To authorise and set conditions for the land and soil disturbance associated with earthworks required to:
- 1 Form access tracks for river gravel extraction and debris island removal works;
 - 2 Form the river gravel stockpile sites and stockpile river gravel;
 - 3 Form debris island material stockpile sites and stockpile debris island material;
 - 4 Establish a boat ramp and vehicle parking area; and
 - 5 Establish erosion and sediment controls.

2 Location

- 2.1 The activity authorised by this resource consent is located at:
- 1 On land at 59 Kopuriki Road, Galatea;
 - 2 On land adjacent to debris island removal works at 3848 Galatea Road, Galatea; and
 - 3 As shown on BOPRC Consent Plan RM23-0389/01 and RM23-0389/04.

3 Notification of Works

- 3.1
- 1 No less than five working days prior to the commencement of earthworks the consent holder must notify and invite (in writing) the representatives of Te Rūnanga o Ngāti Manawa and Te Runanga o Ngāti Whare to discuss how any stockpiled gravel can be used in a mutually beneficial way.
 - 2 Evidence of the notification, must be kept and provided to the Chief Executive of the Bay of Plenty Regional Council or delegate within 48 hours of a request to do so (see Advice Note 1).
- 3.2
- 1 No less than five working days prior to the commencement of earthworks the consent holder must request (in writing) a site meeting with a representative of the Chief Executive of the Bay of Plenty Regional Council or delegate (see Advice Note 1). This request must include details of who is to be responsible for site management and compliance with consent conditions.

- 2 No less than five working days prior to the completion of earthworks, the consent holder must notify and request (in writing) a site meeting with Chief Executive of the Bay of Plenty Regional Council or delegate (see Advice Note 1).

4 Earthworks

- 4.1 Unless otherwise required by conditions of this consent, all earthworks must be carried out in accordance with the following:

- 1 The updated Resource Consent Application titled 'Aniwhenua Hydroelectric Power Scheme, Removal of Gravel and Debris Islands of Lake Aniwanuiwa, 16 October 2023' received by the Bay of Plenty Regional Council on 26 October 2023;
- 2 The response to further information titled 'SGLP RM23-0389-AP Further information (S92 RMA)' received by the Bay of Plenty Regional Council on 11 March 2024; and
- 3 The response to further information titled 'Lake Aniwhenua Ecology s92' received by the Bay of Plenty Regional Council on 11 March 2024; and
- 4 The Certified Erosion and Sediment Control Plan required by Condition 9.1; and
- 5 The Certified Biosecurity Management Plan required by Condition 14.1 of consent RM23-0389.BC.01.

5 Limits on the Location and Scale of Works

- 5.1 All earthworks must be located on the true right bank of the Rangitāiki River or the true right bank of Lake Aniwanuiwa.
- 5.2
 - 1 All earthworks and erosion and sediment controls must be located no closer than 0.5 m to the Rangitāiki River, Lake Aniwanuiwa or the Lake Aniwanuiwa Wetland.
 - 2 The consent holder must install suitable visible markers along the edge of the Lake Aniwanuiwa Wetland adjacent to the earthworks area to clearly show its location and extent in accordance with the Wetland Delineation Map referenced as BOPRC Consent Plan RM23-0389/04.
- 5.3 The gravel removed from the Rangitāiki River channel must be stockpiled at the location identified on BOPRC Consent Plan RM23-0389/04.

6 Limits on Timing and Duration of Works

- 6.1
 - 1 The ground within earthwork areas required for the extraction of gravel and removal of debris islands authorised under RM23-0389-BC.01 must be stabilised within one month of completing the respective extraction of gravel and removal of debris islands.
- 6.2
 - 1 Earthworks required for the relocation of the boat ramp and parking area must be completed and the ground stabilised within one month of the commencement of those works.
 - 2 Earthworks associated with the removal of the river gravel stockpile must be completed and the ground stabilised within one month of the completion of the stockpile removal.
- 6.3
 - 1 Earthworks must only be carried out during the hours of 7:00 am to 5:30 pm.
 - 2 Earthworks must only be carried out over a maximum of six consecutive days, followed by a minimum 24 hour stand down period where no earthworks take place.

3 Earthworks can recommence following the stand down period.

6.4 1 The consent holder must ensure that no later than three years after the commencement of gravel extraction under consent RM23-0389.BC.01 the stockpile of gravel is removed from the location shown in BOPRC Consent Plan RM23-0389/04.

2 The consent holder must ensure that stockpiled material sourced from the debris islands is relocated within one month of its placement to an alternative location in conformance with the permitted activity rule LMR1 of the Regional Natural Resources Plan.

6.5 Earthworks activities, other than for the maintenance of erosion and sediment controls, must not be carried between the period starting two weeks prior to and ending two weeks after the opening weekend of waterfowl hunting season which occurs on the first full weekend of May annually.

7 **Boat Ramp**

7.1 1 The consent holder must relocate the existing boat ramp and boat ramp parking area situated below the Kopuriki Road Bridge to a new temporary location just upstream of the Kopuriki Road Bridge, in accordance with BOPRC Consent Plan RM23-0389/03, before any other earthworks are carried out.

2 Following the completion of river gravel extraction works, and no later than three months prior to the expiry of this consent, whichever comes first, the consent holder must re-establish the boat ramp and parking area at the original location.

8 **River Gravel Stockpile**

8.1 Stockpiles of river gravel must be:

- 1 Kept to a minimum practicable size;
- 2 Orientated parallel to the Rangitāiki River flow;
- 3 Layered and track rolled to minimise loose material; and
- 4 Battered at 1.5 m horizontal to 1.0 m vertical.

8.2 Stockpiles of river gravel must be located:

- 1 To minimise any obstruction or diversion of Rangitāiki River flood flows; and
- 2 As far as practicable from the edge of the Rangitāiki River.

8.3 The area to be used for river gravel stockpiling must be stripped of topsoil prior to gravel stockpiling occurring.

9 **Erosion and Sediment Control**

9.1 1 Prior to the commencement of earthworks authorised by this consent, the consent holder must submit a final Erosion and Sediment Control Plan (ESCP), to the Chief Executive of the Bay of Plenty Regional Council or delegate for written certification (see Advice Note 1). Earthworks must not commence until written certification has been received.

2 The final ESCP must be in general accordance with the draft ESCP on pages 4-6 of the response to further information titled 'SGLP RM23-0389-AP Further information (S92 RMA)' received by the Bay of Plenty Regional Council on 11 March 2024 and must also include:

1. A site plan of the erosion and sediment controls showing the location of the controls with respect to the earthworks, and the type of controls to be used.
 2. For the deposition and stockpiling of river gravel and debris island debris, the bund height and batter around each stockpile, and details of any fencing or other sediment runoff controls.
 3. A map delineating the extent of the areas that will be disturbed from all earthwork activities identified in Condition 1.1.
 4. Appropriate controls for earthworks during both summer and winter.
 5. A monitoring and maintenance schedule for the erosion and sediment controls, including responding to damage from weather or high river flow events, or interference by the public.
- 3 Any subsequent variation to the ESCP plan must be submitted to the Chief Executive of the Bay of Plenty Regional Council or delegate for written certification.
- 9.2 Erosion and sediment controls must be installed prior to the commencement of any earthworks at a location.
- 9.3 Unless otherwise specified in the certified ESCP, the consent holder must ensure that all erosion and sediment controls (including temporary sediment treatment devices) comply with design standards set out in Bay of Plenty Regional Council Guideline No. 2010/01 - "Erosion and Sediment Control Guidelines for Land Disturbing Activities".
- 9.4 The consent holder must:
- 1 Ensure that the erosion and sediment controls and associated erosion protection devices are always maintained in an effective capacity and good working order.
 - 2 Inspect erosion and sediment controls every working day and after a heavy rain event.
 - 3 Divert uncontaminated overland flow or ponded water away from the earthwork areas.
 - 4 Complete any necessary maintenance of erosion and sediment controls identified by consent holder inspections or by the Bay of Plenty Regional Council staff within 24 hours or as soon as is safely practicable.
 - 5 The consent holder must ensure that all-weather machinery access is maintained to the sediment control devices.
- 9.5
- 1 The consent holder must ensure that there is no tracking of soil or sediment on to any public road.
 - 2 If tracking of soil or sediment on to a public road occurs, the consent holder must ensure that machinery and vehicles do not leave the site, must clean up the material on the public road and put appropriate systems in place to prevent any further tracking of soil or sediment on to any public road.
- 9.6 The consent holder must ensure that all exposed areas of earth resulting from earthworks authorised by this consent are effectively stabilised against erosion as soon as practicable following the completion of each stage of works, to the satisfaction of the Chief Executive of the Bay of Plenty Regional Council or delegate.

10 Planting Plan

- 10.1 1 No later than five working days after the completion of river gravel extraction and stockpiling works, the consent holder must provide a Riparian Planting and Management Plan (RPMP) prepared by a suitably qualified and experienced ecologist to the Chief Executive of the Bay of Plenty Regional Council or delegate for written certification (see Advice Note 1).
 - 2 The RPMP must detail planting of the riparian margin of the Rangitāiki River and the Aniwanuiwa Wetland adjacent to the river gravel deposition area identified in BOPRC Consent Plan RM23-0389/04.
 - 3 The RPMP must include:
 - i) A map demarcating the extent, area and density of planting.
 - ii) Specification of plants that are indigenous species suitable for the location (see Advice Note 10).
 - 4 Proposed maintenance of the planting, including the replacement of dead plants and weed control.
- 10.2 1 The riparian planting detailed in the RPMP must be undertaken as soon as practicable following the certification of the RPMP by the Bay of Plenty Regional Council and any planting must be maintained for the duration of the consent;
 - 2 The consent holder must keep records of all planting and plant maintenance undertaken, identifying the date and description of the planting or maintenance including the number and species of plants planted; and
 - 3 Those records must be made available to the Chief Executive of the Bay of Plenty Regional Council or delegate within 48 hours of a request to do so.

11 General Works

- 11.1 The consent holder must remove slash and debris associated with earthworks from the bed and banks of the Rangitāiki River and the Lake Aniwanuiwa wetland immediately following the completion of earthworks or vegetation removal.
- 11.2 The consent holder must ensure that no fuel storage or machine refuelling occurs where fuel could enter the Rangitāiki River and the Lake Aniwanuiwa wetland in the event of a fuel spillage.

12 Monitoring and Reporting

- 12.1 The certified Erosion and Sediment Control Plan must remain on site at all times and be made available for Council Compliance Officers to refer to during site inspections.
- 12.2 The consent holder must inspect the earthworks and the erosion and sediment controls following completion of works each day, and within 12 hours of each rainstorm event which is likely to impair the function or performance of the erosion and sediment controls, until such time as the work site is fully stabilised.
- 12.3 The consent holder must maintain records of:
 - 1 Every inspection carried out under Condition 12.2 ;
 - 2 The date and description of any maintenance of the erosion and sediment controls;

3 The date of any spill (petrol/oil/chemicals or similar) greater than five litres and the spill response works carried out.

12.4 The consent holder must keep all records required by this consent for the duration of the consent.

12.5 The consent holder must make the documents and records required under this consent available to the Chief Executive of the Bay of Plenty Regional Council or delegate within 48 hours of a request to do so.

13 Review of Consent Conditions

13.1 1 The Bay of Plenty Regional Council may, once per year during either May or November, serve notice on the consent holder of its intention to review the conditions of this resource consent. The purpose of the review is to modify conditions to:

1. Deal with any adverse effect on the environment which may arise from the exercise of this consent, and which is appropriate to deal with at a later stage; and/or
2. Require the adoption of the best practicable option to remove or reduce any adverse effect on the environment; and/or
3. Address any identified effects on cultural values that have not yet been identified by tāngata whenua of the area for the activity, which are subsequently identified and agreed through any regional planning process or set in the objectives, policies, and standards for the area.
4. The fair and reasonable costs associated with any such review must be recovered from the consent holder.

14 Term of Consent

14.1 This consent expires six years from its date of commencement.

Advice Notes

1 Reporting, notification and submission of plans required by conditions of this consent are to be directed (in writing) to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatane 3158 or email notify@boprc.govt.nz, this notification must include the consent number RM23-0389.LC.01.

2 This consent does not authorise the holder to modify or disturb any archaeological or historic sites within the area affected by this consent. Should any artefacts, bones or any other sites of archaeological or cultural significance be discovered within the area affected by this operation, written authorisation should be obtained from Heritage New Zealand before any damage, modification or destruction is undertaken.

3 The Bay of Plenty Regional Council can advise of contact details for the relevant iwi authority.

4 This consent does not authorise any damming or diversion of water at the activity site. Any such action may require further approval unless a rule in a regional plan expressly allows the dam or diversion.

5 The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.

- 6 The consent holder is advised that non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.
- 7 The Resource Consent hereby authorised is granted under the Resource Management Act 1991 and does not constitute an authority under any other Act, Regulation or Bylaw.
- 8 The consent holder must pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with section 36 of the Resource Management Act 1991.
- 9 The rules that control vegetation clearance in the Regional Natural Resources Plan excludes the clearance of pest plant species. Please contact the Bay of Plenty Biosecurity Team to discuss the removal of pest plant species that are identified in the Regional Pest Management Plan 2020-2030.
- 10 A list of suitable native plants and guidance on planting and maintenance is available on the Bay of Plenty Regional Council Website at
[content https://atlas.boprc.govt.nz/api/v1/edms/document/A3259555/content](https://atlas.boprc.govt.nz/api/v1/edms/document/A3259555/content).
- 11 Should the site in respect of which this consent is granted be sold, a transfer of the consent to the new owner or occupier of the site must take place. The named consent holder will be responsible for any breach of conditions and compliance costs relating to the consent which occur before the transfer of the consent. The transfer of the holder's interest in a consent has no effect until written notice of the transfer is given to the Bay of Plenty Regional Council.
- 12 This consent authorises the deposition of river gravels/ sediment or vegetation at the location identified in BOPRC Consent Plan RM23-0389/04. The consent holder has advised that vegetation and sediment removed from the debris islands will be removed from the river edge and deposited on farmland in accordance with the permitted activity for earthworks LM R1.
- 13 This consent does not authorise access onto or use of private property.