

**Hearing Committee Report and Decision on
applications by Pukeone Partnership &
Kereone Farms Limited to take and use water
from the Waitotara River for
pasture irrigation purposes**

Taranaki Regional Council
Private Bag 713
STRATFORD

21 July 2010

Doc# 774856

Report and decision

of a Committee of the Taranaki Regional Council which heard,

commencing at 9.00 am on 30 June 2010

at the Taranaki Regional Council offices, Stratford,

resource consent applications by Pukeone Partnership & Kereone Farms Limited

Both applications seek to take and use water from the Waitotara River for pasture irrigation purposes:

Consent 7527-1 [application 6318 by Pukeone Partnership]

Consent 7528-1 [application 6319 by Kereone Farms Limited].

The applications, made in accordance with the Resource Management Act 1991 [“the Act”], were lodged with the Taranaki Regional Council [Council] and referenced 6318 and 6319, respectively.

Present

Commissioners:

Cr David Lean [Chairperson]
Cr Neil Walker
Cr Barry Marsh

Applicants:

Sam Parsons, Stewart Parsons	Pukeone Partnership
Gary Hawken	Kereone Farms Limited
Karl Browne	Geosearch Limited [Consultant for applicants]
Brian Doughty	Federated Farmer [Witness for applicants]

Taranaki Regional Council Officers

Colin McLellan	Consents Manager
Darlene Ladbrook	Senior Consents Administration Officer
Janette Harper	Consents Administration Officer

Submitters:

Te Kaahui o Rauru

Esther Tinirau
Dallas McLeod
Hayden Potaka
Martin Davis
Che Wilson
Gerrard Albert

Kaiwhakahaere
Wharetaapapa Marae Trustees
Te Ihupuku Marae
Tauranga Ika Marae
Expert Witness
Expert Witness

Others in attendance:

Kiwa Hammond

Maori Interpreter

Some other members of Taranaki Regional Council staff
(observers) and members of the public, affiliated with Federated
Farmers or Te Kaahui o Rauru.

Description of Proposed Activity

1. The applications by Pukeone Partnership [Pukeone] and Kereone Farms Ltd [Kereone] [‘the applicants’] are to take water from the Waitotara River for pasture irrigation. The applications are to take through separate, independent pumping systems at the same site, which is about 5 km upstream of the mouth of the river. The site is at the most downstream point on the river from which water could be taken without it being excessively saline.
2. An aerial photograph showing the proposed take location, pipeline and properties receiving the water is shown in Figure 1.
3. The total volume proposed to be taken is 24,552 m³ per day to irrigate 380 ha, the applications are summarised in the table below.

Consent [application]	Applicant	Irrigation Area	Daily Volume	Rate
7527-1 [6318]	Pukeone Partnership	239 ha	15,192 m ³	325 l/s
7528-1 [6319]	Kereone Farms Ltd	141 ha	9,360 m ³	200 l/s

4. The abstraction site is in a tidal reach of the river and at times during the tidal cycle the water is unsuitable for irrigation because of high salinity. Suitable water is expected to be available between 13 and 16 hours per day during the irrigation season, depending on tide and river flow conditions.
5. Recognising that suitable water is not continually available, the rates of taking proposed enable the daily volume to be taken over a 13 hour period.
6. The applications include establishing a flow monitoring station and maintaining a residual flow of at least 5,101 litres/second (l/s) downstream of the take site.

Regional Plan Rules Affected

7. The applications are discretionary activities under Rule 16 of the *Regional Fresh Water Plan for Taranaki* [RFWP], which has been operative since 2001.

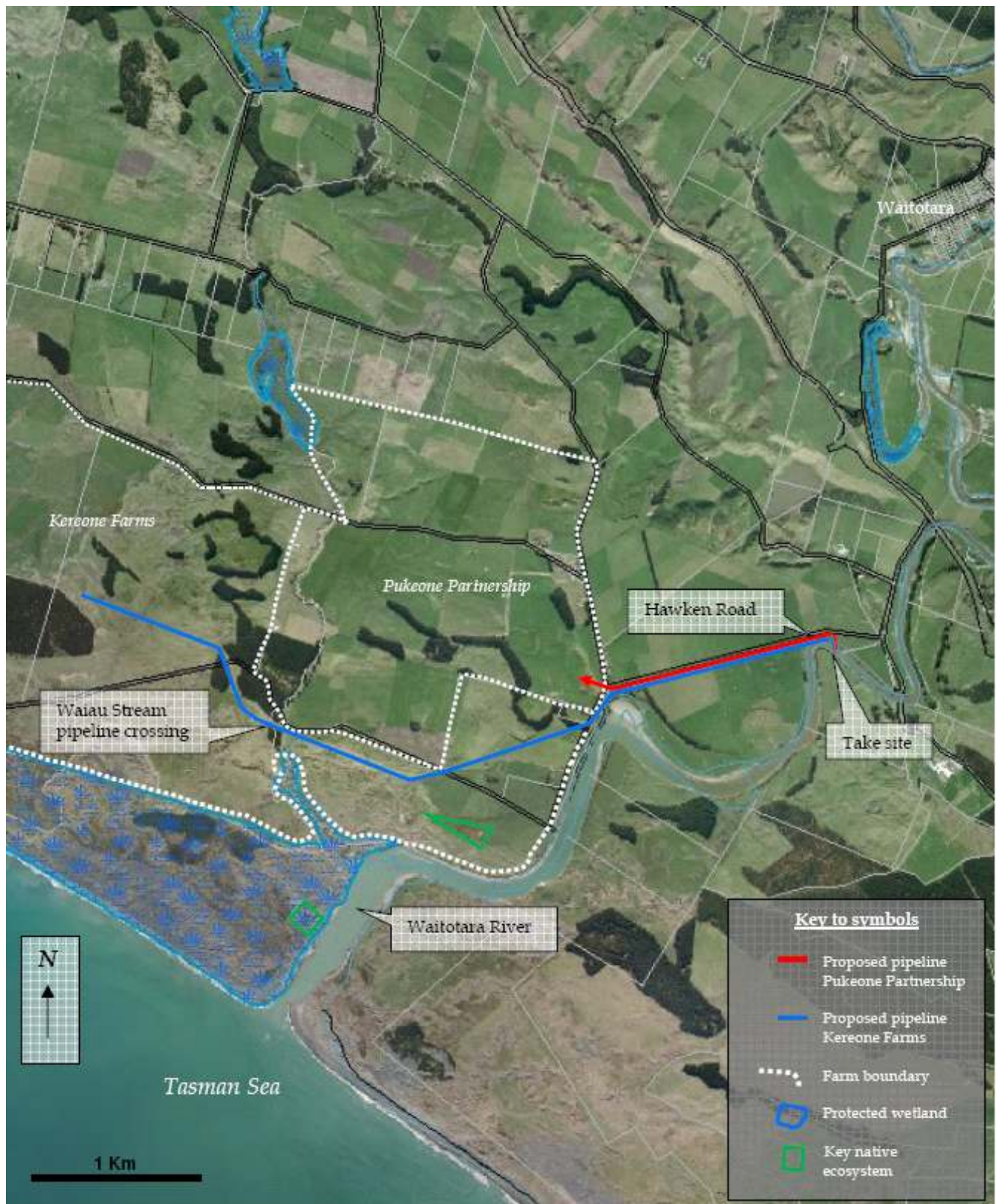


Figure 1: Aerial photo showing key site details [from application & AEE]

Notification and Submissions

8. The applications were limited notified on 16 October 2009 in accordance with section 93 of the Act [being prior to the Simplifying and Streamlining Amendment Act 2009]. Notice was served on three parties: Department of Conservation, Fish and Game Council, and Te Kaahui o Rauru.
9. A submission was lodged on each of the applications by Te Kaahui o Rauru.
10. The submission was that Kaipō, Tauranga Ika, Waipapa and Ihupuku Marae have concerns that the taking will have cultural and spiritual effects, and that these hapu have a responsibility as kaitiaki that natural resources are sustainably managed.
11. Te Kaahui o Rauru stated that the submission would be satisfied if a Cultural Impact Assessment [CIA] was undertaken, resourced by the applicants.

Officer Report

12. A Council officer prepared a report in accordance with section 42A of the Act, which had been provided to all parties at least five working days before the hearing [the Officer Report]. The Officer Report included an assessment of the proposal under the provisions of the Act and recommended that the applications be granted to 1 June 2022.
13. The recommendation included conditions of consent that reflect the scope of applications, including the offer to install a flow recorder in the river, to stop taking when the flow is below 5101 l/s and to undertake riparian planting as a mitigation measure.

Cultural Impact Assessment

14. A CIA was prepared by Te Kaahui o Rauru Trust for the applicants. This report was circulated with the Officer Report before the hearing.

The Hearing

Procedural Matters

15. The hearing opened with a karakia at the invitation of the Chairperson, Cr Lean. Cr Lean then noted that the Committee members had visited the site on 28 June 2010 and were familiar with the site and its general area. The Committee members introduced themselves and Cr Marsh made reference to his whakapapa and noted a copy was available to interested parties. Cr Lean also advised that the hearing was being recorded and asked each speaker to identify themselves before speaking.

Summary of legal submissions and evidence heard

Applicant

16. The applicants' case was led by Mr Karl Browne of Geosearch Ltd. Evidence was presented by Mr Browne and Mr Brian Doughty, President Federated Farmers Whanganui Province.

Evidence of Karl Browne

17. Mr Browne noted that the applications had been circulated before the hearing and therefore could be 'taken as read'. He did however reiterate important aspects of the applications and stated that the Waitotara River is the only viable source of irrigation water.
18. He also stated that the applicants had consulted with parties affected by the applications, being Fish and Game, Department of Conservation [DOC] and Nga Rauru Kiiitahi. The applications were subsequently amended, which addressed concerns raised by Fish and Game and DOC, but not those of Nga Rauru Kiiitahi.
19. Mr Browne acknowledged the cultural and spiritual significance of the Waitotara River to Nga Rauru Kiiitahi and noted that the applicants have made every attempt to understand and address their concerns.
20. Mr Browne noted that the applicants had funded the preparation of the CIA as requested by Nga Rauru Kiiitahi in its submission. He then addressed the concerns raised in the CIA and the solutions it proposed.
21. In addressing these CIA matters he stated that:
 - The water take would result in such a small change in water level that there would be no effect on taonga fish species, their food, or water quality;
 - The regulatory framework for water allocation is set out in the Council's Regional Policy Statement and Regional Freshwater Plan;
 - Sufficient water would remain in the river during droughts to ensure that the life supporting capacity of the water and ecosystem are adequately protected;
 - The application, in its final form, did recognise the Statutory Acknowledgment;
 - There is a regulatory framework to deal with the cumulative effects of future take applications;
 - The applicants are happy for river flow and water abstraction data to be provided to the Nga Rauru Kiiitahi; and
 - The applicants do not support payments to Nga Rauru Kiiitahi for the taking of the water.
22. Mr Browne stated that the applicants agree with the Officer Report and accept the recommended consent conditions, including that related to the 12 year term.

Evidence of Brian Doughty

23. Evidence in support of the applications was presented on behalf of Federated Farmers by Mr Doughty.
24. Mr Doughty explained Federated Farmers support sustainable farming but do not usually get involved in resource consent applications unless there are ramifications for farmers more generally. In this case they are involved because the submitters had asked the applicants to pay them an annual fee to maintain their monitoring regime and contribute to their Environment Plan.
25. He strongly opposed payments being made to the submitters and that neither the Act nor the Nga Rauru Kiiitahi Claims Settlement Act (between the Iwi and the Crown) provide for such payments to be made.
26. Federated Farmers supported the conclusions of the Officer Report.

Submitter – Nga Rauru Kiiitahi

27. The submitters case was lead by Ms Esther Tinirau, kaiwhakahaere. Evidence was presented by Ms Tinirau, Dallas McLeod [Wharetaapapa Marae Trustees], Hayden Potaka [Te Ihupuku Marae], Martin Davis [Tauranga Ika Marae], Che Wilson and Gerrard Albert.
28. An interpreter had been requested by the submitter for the hearing and Mr Kiwa Hammond provided a translation, where necessary, given most of the submission was given in english.

Evidence of Esther Tinirau

29. Ms Tinirau, in te reo Maori, detailed the history of Nga Rauru. That history demonstrated the ancestral link between the Iwi and the Waitotara River and highlighted that the river had sustained the Iwi since the beginning.
30. Ms Tinirau expressed some concerns about the consent application process. In particular she noted that the applicants and the hapu had ended up 'talking past each other because of divergent values and understanding'.
31. She disagreed with parts of the Officer Report, in particular she noted:
 - Comments made by hapu members during consultation did not necessarily indicate agreement, as suggested by the applicants and reported by the Council officer;
 - Hapu concerns would not be met merely by the preparation of a CIA. Due regard also has to be given to the cultural and spiritual concerns it raises;
 - General disagreement with the Officer's statutory assessment of the application. In particular Ms Tinirau's view is that insufficient weight has been given to the matters relating to Maori values; and

- She believes that all concerns raised by Nga Rauru Kiitahi should be considered when determining these applications, and that there are no matters raised that are outside the Committee's jurisdiction as stated in the officer report.
32. Ms Tinirau concluded by stating that Te Kaahui o Rauru opposes the granting of the consents because of their belief that the mouri [mauri] of the river is at risk from the proposed taking of water and from the subsequent increased agricultural activity. She also believes that the Council has failed in its duty to take due regard of Nga Rauru's relationship, values and rights as expressed in the Act, Regional Policy Statement and RFWP.

Evidence of Dallas McLeod

33. Mr McLeod stated that existing pollution had caused the decline of kaimoana and other food resources over the years, and that 'more tampering of natural resources' would add to the problem. He noted that in the past it was not unusual to gather a wheelbarrow full of whitebait but now they struggle to get a half bucket.
34. He noted the presence of a waahi tapu along the area where the applicants wish to place their pump shed. This waahi tapu is the place where, in accordance with custom, the Iwi traditionally buried the first fish caught. He considered the amount of water extracted will affect the upper regions of the awa (river) and other waahi tapu areas, but was not specific about these areas.
35. He expressed concern about the effects of increased dairy effluent and runoff he believes would result from the increased production arising from the taking of water for irrigation.
36. He also expressed general concern about the general condition of the awa, which he said 'was straining to sustain life' being impacted by human waste from the village, car wrecks, and general household rubbish. He pointed out their responsibilities as kaitiaki of natural resources and expressed concern that the applications put their taonga at further unnecessary risk.

Evidence of Hayden Potaka

37. Mr Potaka, on behalf of Ngati Hinewaiatarua Hapu (of Te Ihupuku Marae), stated that the Council had failed to recognise and apply the findings of the CIA and therefore has not met its obligations under section 8 of the Act, which requires it to take into account the principles of the Treaty of Waitangi.
38. He also stated that the Council had not met its obligations under section 6 of the Act, which requires the Council to provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. The Statutory Acknowledgements, under the Iwi's Settlement Act 2005, acknowledge the cultural, spiritual, historic and traditional association with the river. The water is a taonga and central to Maori health and well being. Mr McLeod also made reference to the forthcoming Wai 262 Waitangi Tribunal report whereby claimants are seeking to exercise rangatiratanga (sovereignty) over indigenous flora and fauna.

39. He stated that the assessment in the Officer Report was purely scientific and did not take into account the cultural significance of the water or its intrinsic values to Nga Rauru Kiitahi.
40. Mr Potaka concluded by stating that he does not agree with the applications or the process by which the hapu has been consulted.

Evidence of Martin Davis

41. Mr Davis, on behalf of Tauranga Ika Marae, challenged the ability of the Council to determine the applications stating that it did not have the necessary knowledge or experience to fairly adjudicate and protect cultural values as required by the Act. He stated that the Marae is not challenging whether the consents should be granted or not, only the ability of the Council to fairly adjudicate on them.
42. He made reference to the United Nations Declaration on the Rights of Indigenous Peoples and suggested that the Council is not intending to achieve a level of compliance with it.
43. He also referred to the method of stream assessment known as the 'Cultural Health Index' [CHI] (published by the Ministry for the Environment) and suggested that it should be undertaken on the Waitotara River or a similar tool developed by Iwi and the Council.

Evidence of Che Wilson

44. Mr Wilson introduced himself as an expert in tikanga Maori and presented evidence on: Statutory Acknowledgements and kaitiakitanga; consultation; waahi tapu and cultural monitoring.
45. Mr Wilson briefly discussed Statutory Acknowledgements and kaitiakitanga suggesting that the Officer Report did not give enough weight to these important matters. He also suggested more effort should have been put into consultation and the relationship with Nga Rauru Kiitahi, particularly given the provisions of the Settlement Act and Statutory Acknowledgements.
46. He discussed the waahi tapu where the first catch of the season is buried and noted that it is a 'place' rather than a particular site and implied that it may not be practicable to avoid it by moving the proposed intake site. He stated that the waahi tapu would be impacted by the construction of the pump shed.
47. He made reference to the CHI and possible riparian plan for the catchment, where Iwi and Council could work together.
48. Mr Wilson also stated that where annual payments are made to Iwi for the use of a particular resource it is normally agreed between the parties as part of the consultation process.

Evidence of Gerrard Albert

49. Mr Albert, a natural resource policy adviser, presented expert evidence on the interactions the Council and the applicants have had with Iwi and Hapu, and assessed these interactions against best practice.
50. Mr Albert's evidence was that:
 - The statement in the Officer Report that a Statutory Acknowledgement, with respect to determining a resource consent application, does not put any additional obligations on the Council, is incorrect;
 - It is generally accepted that Statutory Acknowledgements are intended to be incorporated into planning and the Council has not done that;
 - Consultation was perfunctory and cannot claim to capture the views of Nga Rauru Hapu and Iwi;
 - The Officer Report did not specifically address the relationship of Nga Rauru Hapu and Iwi with the Waitotara River so therefore it should not have concluded that the relevant plans support the granting of the applications; and
 - The CIA should only be considered an intermediate step in the consultation process.

Presentation of Officer Report

51. The Officer Report was presented by Mr McLellan. The report was taken as read but he highlighted some key points and responded to some matters raised, including:
 - Confirmation of his view that the report correctly stated the Council obligations with respect to the Statutory Acknowledgements;
 - Stating that he also had some concern about the shortage of hydrological information on the Waitotara River, but confirmed that there was sufficient information to determine the applications;
 - Reiterating that the effects of taking such a small proportion of the flow immediately upstream of the mouth would have very little adverse effect, including any affect on Maori cultural and spiritual values;
 - Confirming that in concluding that the consents could be granted he had considered all the matters required by the Act, including those matters referenced by submitters witnesses;
 - It is noted that under the Act, it is difficult to take into account the effects of landuse change arising from increased production due to irrigation. However, the applicants have offered to undertake riparian planting on the land receiving irrigation to address any consequent effects and Iwi concerns about the adverse effects of intensified land use, and to provide mitigation for the effects of the water take; and

- The CHI includes a positive consideration for increased riparian vegetation and use of the riparian margin, and that the proposed riparian mitigation measures are supported under the environmental consideration afforded by the Index.

Applicant's right of reply

52. Mr Browne's reply on behalf of the applicants was brief. His main points were that they respect the Iwi's 'holistic view' of the environment and reiterate that they are willing to move the intake and pump shed to avoid the waahi tapu. Riparian planting would be undertaken to mitigate the effects of the take and the changed land use.

Hearing closure

53. Cr Lean, on behalf of the Committee, thanked the submitters and the applicants for the information they provided and the manner in which it was presented.
54. Cr Lean noted that all evidence presented at the hearing would be carefully considered, a decision would be issued in accordance with the timeframe in the Act, and declared the hearing closed.

Principal issues in contention

55. The Act requires the Committee to identify the principal issues in contention and the main findings of fact. The Committee determines the principle issues in contention are:
- Recognition of cultural and spiritual matters; and
 - Adequacy of available hydrological information.

Main findings of fact

56. The Committee deliberated on the applications, all submissions, the Officer Report, and other evidence presented, with particular regard to the matters which it is required to address under the Act. The Committee's main findings of fact are detailed below.
57. Firstly, it is important to state that the Committee recognises the ancestral significance of the Waitotara River to the Iwi and Hapu that have lived with it, and been sustained by it for many generations. The Committee therefore accepts that protection of this tupuna awa is of paramount importance.
58. However, the Committee has determined that the applications can be granted, and that subject to the consent conditions included in that decision, any effect on the Waitotara River will be minor and consistent with that allowed for by the Act and the Plans.

59. The Committee assures Nga Rauru Kaitahi that it has the knowledge and experience to fairly adjudicate and determine these applications, giving appropriate consideration of all the relevant matters required by the Act, including cultural values.
60. The Committee accepts the assessment and conclusions presented in the Officer Report, including the assessment of section 104 and Part 2 of the Act. This assessment is not repeated in the decision but comments are made with regard to the principle issues that are in contention.
61. The Committee agrees with the consent duration of 12 years recommended in the Officer Report and notes the applicants supported this term.
62. With the inclusion of some additional requirements, and some minor modifications for the purposes of accuracy and certainty, the Committee has determined that the conditions recommended by Council officer will effectively avoid, remedy and mitigate any adverse effects of the taking. In making this determination the Committee notes that:
- the water taken and the river flow will be recorded and made available to the Iwi and public;
 - the water take will not reduce the river flow to less than 80% of its mean annual low flow;
 - conditions have been included that require salinity monitoring and limit the salinity of the water used to protect the soil;
 - riparian planting is to be undertaken;
 - an opportunity to review the conditions of the consents in 3 years has been included; and
 - a condition has been included for the consent holder and the Council to meet regularly with Iwi to discuss any relevant matter.
63. In summarising the Council's obligations with respect to Statutory Acknowledgements, the Officer Report concluded that they put no more obligation on the Council than would be there in any case. Nga Rauru Kaitahi disagrees with this interpretation. However, although he called it 'dismissive', Mr Albert did not dispute this interpretation and stated in his evidence that it was 'generally accepted' that the intent is to incorporate such acknowledgements specifically into planning.
64. The Committee notes that Statutory Acknowledgements are attached to its Regional Policy Statement and four Regional Plans and that matters relating to Maori culture and values are incorporated into the documents as a result of Maori input to such plans during their development.
65. The Committee therefore agrees with the Council officer's assessment that the Statutory Acknowledgement confirms, in a legal sense, the connection between the Waitotara River and Nga Rauru Kaitahi, and establishes mechanisms to ensure Nga Rauru Kaitahi have appropriate involvement in the resource consent process. But with respect to assessing and determining a resource consent application, the Council's only obligations are those imposed by section 104 of the Act.

66. The Committee is therefore satisfied that procedures followed with these applications, the assessment of the applications, and this decision to grant the applications fulfil the Council's obligations with respect to Statutory Acknowledgements.
67. The Committee acknowledges that the applicants made a fair, timely and genuine attempt to consult with the Iwi, involving meaningful discussions to understand their concerns, and where possible resolve them. The CIA was prepared by Te Kaahui o Rauru Trust on behalf of Ngaa Rauru Kiihahi and a number of Hapu and marae (Turanga Ika, Waipapa, Te Ihupuku and Takirau) who adjoin the Waitotara River. Hence there was a broad Tangata Whenua involvement in the consultation process.
68. The Committee considers the principles applicable to consultation identified by Mr Albert have generally been applied by the applicants and Council officers. The consultation was undertaken in good faith and involved meaningful discussions but it did not result in resolution or agreement. It further notes consultation and engagement is a two way process and that when Council officers attended a pre-hearing meeting in Waitotara with Iwi and Hapu representatives, the draft officer report on the applications, sent some 13 days beforehand to the Iwi, had not been read nor distributed to Hapu or submitters representatives present. When it became clear that resolution or agreement was not possible the applicants requested a hearing be held. Notwithstanding all of the above, the Committee accepts that this may have fallen short of Iwi and Hapu expectations.
69. Although the Committee acknowledges that consultation can bring significant benefits, and some changes to the proposal resulted in this case, the Act (section 36A) does not require consultation for resource consent applications. Any inadequacies there may have been in the consultation process undertaken are therefore not material in determining the applications.
70. The Committee considers it significant that, although Nga Rauru Kiihahi's stated belief is that the proposed taking would have cultural and spiritual effects, the CIA allows for the taking of water for irrigation from the Waitotara River subject to conditions including paying the Iwi an annual fee in order to maintain its cultural monitoring regimes and to contribute to the implementation and maintenance costs of its Environmental Plan.
71. In this matter the Committee agrees with Mr Doughty and the Council Officer that neither the Act nor the Nga Rauru Kiihahi Claims Settlement Act 2005 makes any legal provision for such payments. Further the Committee notes Mr Wilson's evidence was that these types of payments are normally addressed between the applicant and Iwi. What parties to applications do to address issues raised during consultation is entirely between them. The Committee affirms that water is currently owned by the Crown and under the Act regional councils have the responsibility to manage the resource and there is no provision for such payments.
72. The Committee has read the CIA prepared by Te Kaahui o Rauru. It has also heard evidence from six Iwi and Hapu witnesses on the cultural effects of the applications. The Committee is therefore satisfied that it has been provided with all the information that is reasonably available about cultural effects, and also satisfied that it has sufficient information to determine the applications.

73. The Committee accepts that undertaking an investigation based on the CHI may be of benefit in quantifying the general health of the river but it would be of little, if any, value in determining the effects of these applications on the river. The combined importance of riparian margin management and planting in the CHI and the provision for implementing Riparian Management Plans in the proposed consent conditions is acknowledged.
74. The Committee notes there was evidence presented that the area where the pump shed was to be located was waahi tapu. The applications before the Committee pertain to the taking of water from the river and not the location of the pump shed. Any building would be subject to the provisions of the South Taranaki District Council District Plan and in this context the waahi tapu issue should be addressed.
75. General reference was also made in evidence to the waahi tapu status of the Waitotara River and the important relationship between the Iwi and the river which was viewed as an important taonga.
76. The Committee has given due regard to the cultural and spiritual effects raised by the CIA and in evidence, and to Maori values generally, when assessing the applications. The relationship between the Iwi and its culture and traditions with its ancestral lands, water, sites, waahi tapu, and other taonga has been recognised and provided for through the proposed consent conditions and minimal impact of the taking of water. Under the proposed conditions of consent there will be minimal effects on the flow levels (2.5 cm), variability or aquatic life.
77. The Committee considers some water must be able to be taken from rivers and streams to allow communities to provide for their social, economic, and cultural wellbeing and for their health and safety, subject to sustainable management, safeguarding the life supporting capacity and avoiding, remedying or mitigating any adverse effects on the environment.
78. The second issue in contention concerns the availability of hydrological information. The Committee agrees with the officer that, although there is less hydrological information on the Waitotara River catchment than desirable, there is sufficient to have an adequate understanding of the effects of the proposed taking on the river flow. Hydrologic records from similar gauged catchments, like the close by Whenuakura River, can be utilised using the well established principles of regional hydrology to reasonably estimate flow data where an extensive record is not available. The Committee also notes that the applicants offer to install a flow recording station, which is also required by this decision, will ensure that hydrological information is obtained and made available to the Iwi and public.
79. There is also sufficient hydrological information for the Committee to be confident that the applicants proposal to cease taking water when the flow is less than 5101 l/s would adequately avoid any adverse impact of their taking on low river flow.
80. While the cumulative rate of taking is relatively large it represents only about 8% of the mean annual low flow at the site. However, this rate is based on taking the daily water requirement over a 13 hour period, and when averaged over a 24 hour period this daily requirement is equivalent to 4% of the mean annual low flow.

81. The taking proposed is a small proportion of the river flow. This small reduction in flow will not affect any taonga food species such as inanga and tuna, nor will it affect the ecology generally. The Committee notes that Department of Conservation and Fish and Game gave written approval for the applications and this must be taken as a strong indication that they have no concerns for native fishery or trout for which they have statutory responsibilities.
82. The Committee accepts that the mouri of the Waitotara River has been diminished over time by general landuse in the catchment and has been affected further by rubbish and other material deposited in the river, as described by Mr McLeod. However, although the Iwi submitted that the proposed taking would put the river at an unacceptable risk, the Committee's view is that if there is any additional risk to the mouri, or to the intrinsic value of the water, it is very small because the amount to be taken is small and the site is near to the river mouth.
83. The applicants' offer of riparian planting, including planting near the site of taking, is noted and an appropriate consent condition is included. The Council can not compel the applicants to undertake planting on land they do not own but that limitation is recognised in the condition.
84. The Committee notes any effects of the use of the water have been addressed by the applicants' riparian management proposals that have been included as proposed consent conditions. Any increased dairy-shed effluent arising from the increased number of cows will be adequately addressed in the consent process for this discharge.
85. The applications are consistent with the concept of sustainable management set out in Part 2 of the Act, and with the RPS and RFWP. Any adverse effects, including those on cultural and spiritual aspects, are avoided, remedied or mitigated by the small proportion of the flow to be taken, maintaining a residual flow of at least 5101 l/s and by riparian planting.

Relevant statutory provisions

86. The actual and potential effects on the environment of the activity were assessed in the Officer Report. Subject to the comments made in this decision the Committee accepts the officer's assessment.
87. Similarly the Officer Report comprehensively assessed the proposal against the above planning documents. This assessment is not repeated in this decision but is accepted by the Committee.

Decision

88. The Committee, acting pursuant to the powers delegated to it by the Taranaki Regional Council, and having given due consideration to sections 104, 104B, 105, 107 and 108 of the Act, hereby grants the following resource consents subject to the conditions detailed in this decision report for a duration of 12 years:

Consent 7527-1 [6318] – to take and use water from the Waitotara River for pasture irrigation purposes

Consent 7528-1 [6319] - to take and use water from the Waitotara River for pasture irrigation purposes.

Reasons for the decision

89. The reasons for the decision are detailed in this decision report but in summary they are that the actual and potential adverse effects of the proposal will be adequately avoided, remedied and mitigated by the terms and conditions of consent and that sustainable management of the Waitotara River will be achieved.
90. Arising from evidence presented at the hearing the Committee has made some changes to the consent conditions proposed in the Officer's Report. These are shaded for ease of reference.

Other matters arising

91. The Committee notes that during the hearing there were references made by various witnesses concerning the relationship between the Iwi and the Council. The CIA also made reference to the conclusion of a Memorandum of Understanding [MOU] process between Te Kaahui o Rauru and the Council. Mr Davis suggested ways to move forward on this issue involving increased engagement, at a number of levels and possible work programmes. While this is not a matter specifically relevant to these applications, the Committee considers it would be beneficial if there was increased engagement between the parties and the completion of the MOU process may be one way to address this.
92. Further, there was significant concern expressed by witnesses about the overall state of the Waitotara River, declining mahinga kai and the kaimoana resources, and the availability of monitoring data. Reference was made in evidence concerning poor water quality, due to landuse, and problems with litter in the river/estuary as possible reasons for the decline. The Committee considers there would be benefits if these matters were discussed with the Iwi so that there was greater understanding of their concerns and awareness of Council regulatory approaches (planning, consenting, monitoring, and enforcement) and non-regulatory (riparian, environmental enhancement, and hill country management) environmental programmes. An example of a recent programme is the sustainable land management programme arising from the 2004 flood in the Waitotara catchment.
93. The submitter expressed concern about the additional effects of further taking of water from the river that may occur in future. The possibility of future applications to take water and the effects of those applications have no bearing on the applications being considered now. Future applications, if any, will be determined on their merits and in accordance with resource management framework that exists at the time. The Committee however notes that granting consents to take water becomes increasingly difficult to justify as the level of allocation approaches its sustainable limit.

Consent 7527-1[application 6318] – Pukeone Partnership

That application 6318; to take and use water from the Waitotara River for pasture irrigation purposes be approved for a period to 1 June 2022, subject to the Council’s general condition and the following special conditions:

Special conditions

1. Subject to condition 2 the rate of taking shall not exceed 325 litres per second, up to a maximum of 15,192 cubic metres per day.
2. The rate that water is taken pursuant to this consent, in combination with the rate that water is taken pursuant to consent 7528-1 [held by Kereone Farms Ltd] shall not exceed the ‘maximum combined rate of taking’ shown in the table below unless the flow in the Waitotara River, as measured at the site established in accordance with condition 3, exceeds the corresponding flow shown in the table.

Maximum combined rate of taking [litres per second]	Flow at measuring site [litres per second]
525	5626
500	5601
475	5576
450	5551
425	5526
400	5501
375	5476
350	5451
325	5426
300	5401
275	5376
250	5351
225	5326
200	5301
175	5276
150	5251
125	5226
100	5201
75	5176
50	5151
25	5126

3. The consent holder shall ensure that a hydrological recording station is established and maintained on the Waitotara River at a site, determined by the Chief Executive, Taranaki Regional Council, where the flow is, for practical purposes, equivalent to the flow at the point of taking.
4. The consent holder shall measure and record, using a tamper-proof device:
 - (a) the rate that the water is taken at intervals not exceeding 30 minutes to an accuracy of $\pm 5\%$;
 - (b) the volume of water taken each day to an accuracy of $\pm 5\%$; and

- (c) the flow in the Waitotara River at the site established in accordance with condition 3, at intervals not exceeding 30 minutes, to an accuracy of $\pm 8\%$.
5. The measurements made in accordance with condition 4, in a format to be advised by the Chief Executive, Taranaki Regional Council, shall be transmitted to the Council's computer system to maintain a 'real time' record of the water taken and the river flow at the take site.

Notes:

- (i) *Work required by special conditions 3 and 4(c) will be undertaken by the Taranaki Regional Council and all reasonable costs will be recovered from the consent holder through the annual compliance monitoring programme that will be established for the activity.*
- (ii) *The Taranaki Regional Council will annually provide a copy of the abstraction record [rate and volume per day] to Te Kaahui o Rauru.*
6. Water taken for irrigation use shall have a total dissolved salt concentration no greater than 960 parts per million.
7. The consent holder shall continuously record the conductivity of the Waitotara River at the site of taking and make the record available to the Chief Executive, Taranaki Regional Council on request.
8. Notwithstanding the terms and conditions of this consent the consent holder shall take all reasonable steps to avoid, remedy or mitigate any adverse effect on the environment arising from the exercise of this consent, including, but not limited to, the efficient and conservative use of water, including the major use of centre pivot irrigation equipment.
9. The consent holder shall ensure that the intake structure is appropriately screened to avoid fish, including native fish, entering the intake.
10. The consent holder shall, for mitigation purposes, undertake and maintain riparian fencing and planting, in accordance with the Riparian Management Plan for the property [RMP 2115], before 1 September 2013, along a total of 2 kilometres of the Waiau Stream.
11. In addition to the riparian planting required by condition 10 the consent holder shall, subject to the agreement of the landowner and after consultation with Te Kaahui o Rauru and the Chief Executive Taranaki Regional Council, undertake riparian planting and fencing at the site of taking and in its immediate vicinity.
12. In order to facilitate ongoing Iwi liaison the consent holder and the Director – Resource Management, Taranaki Regional Council, or his delegate, shall meet locally as appropriate, annually or at another frequency that the parties agree, with Te Kaahui o Rauru and any other interested party at the discretion of the Chief Executive, Taranaki Regional Council, to discuss any matter relating to the exercise of this consent, in order to facilitate ongoing Iwi liaison.
13. This consent shall lapse on 30 September 2015, unless the consent is given effect to before the end of that period or the Taranaki Regional Council fixes a longer period pursuant to section 125[1][b] of the Resource Management Act 1991.

14. In accordance with section 128 and section 129 of the Resource Management Act 1991, the Taranaki Regional Council may serve notice of its intention to review, amend, delete or add to the conditions of this resource consent by giving notice of review during the months of **June 2013 and**/or June 2016, for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this resource consent, which were either not foreseen at the time the application was considered or which it was not appropriate to deal with at the time.

Consent 7528-1[application 6319] – Kereone Farms Limited

That application 6319 to take and use water from the Waitotara River for pasture irrigation purposes be approved for a period to 1 June 2022, subject to the Council's general condition and the following special conditions:

Special conditions

1. Subject to condition 2 the rate of taking shall not exceed 200 litres per second, up to a maximum of 9,360 cubic metres per day.
2. The rate that water is taken pursuant to this consent, in combination with the rate that water is taken pursuant to consent 7527-1 [held by Pukeone Partnership] shall not exceed the 'maximum combined rate of taking' shown in the table below unless the flow in the Waitotara River, as measured at the site established in accordance with condition 3, exceeds the corresponding flow shown in the table.

Maximum combined rate of taking [litres per second]	Flow at measuring site [litres per second]
525	5626
500	5601
475	5576
450	5551
425	5526
400	5501
375	5476
350	5451
325	5426
300	5401
275	5376
250	5351
225	5326
200	5301
175	5276
150	5251
125	5226
100	5201
75	5176
50	5151
25	5126

3. The consent holder shall ensure that a hydrological recording station is established and maintained on the Waitotara River at a site, determined by the Chief Executive, Taranaki Regional Council, where the flow is, for practical purposes, equivalent to the flow at the point of taking.
4. The consent holder shall measure and record, using a tamper-proof device:
 - (a) the rate that the water is taken at intervals not exceeding 30 minutes to an accuracy of $\pm 5\%$;
 - (b) the volume of water taken each day to an accuracy of $\pm 5\%$; and
 - (c) the flow in the Waitotara River at the site established in accordance with condition 3 at intervals not exceeding 30 minutes, to an accuracy of $\pm 8\%$.
5. The measurements made in accordance with condition 4, in a format to be advised by the Chief Executive, Taranaki Regional Council, shall be transmitted to the Council's computer system to maintain a 'real time' record of the water taken and the river flow at the take site.

Notes:

- (i) *Work required by special conditions 3 and 4(c) will be undertaken by the Taranaki Regional Council and all reasonable costs will be recovered from the consent holder through the annual compliance monitoring programme that will be established for the activity.*
 - (ii) *The Taranaki Regional Council will annually provide a copy of the abstraction record [rate and volume per day] to Te Kaahui o Rauru.*
6. Water taken for irrigation use shall have a total dissolved salt concentration no greater than 960 parts per million.
 7. The consent holder shall continuously record the conductivity of the Waitotara River at the site of taking and make the record available to the Chief Executive, Taranaki Regional Council on request.
 8. Notwithstanding the terms and conditions of this consent the consent holder shall take all reasonable steps to avoid, remedy or mitigate any adverse effect on the environment arising from the exercise of this consent, including, but not limited to, the efficient and conservative use of water, including the major use of centre pivot irrigation equipment.
 9. The consent holder shall ensure that the intake structure is appropriately screened to avoid fish, including native fish, entering the intake.
 10. The consent holder shall, for mitigation purposes, undertake and maintain riparian fencing and planting, in accordance with the Riparian Management Plan for the property [RMP 2327, in sections 3,4,7,8,9], before 1 September 2013, along a total of 3.6 kilometres of stream bank.
 11. In addition to the riparian planting required by condition 10 the consent holder shall, subject to the agreement of the landowner and after consultation with Te Kaahui o Rauru and the Chief Executive Taranaki Regional Council, undertake riparian planting and fencing at the site of taking and in its immediate vicinity.

12. In order to facilitate ongoing Iwi liaison the consent holder and the Director – Resource Management, Taranaki Regional Council, or his delegate, shall meet locally as appropriate, annually or at another frequency that the parties agree, with Te Kaahui o Rauru and any other interested party at the discretion of the Chief Executive, Taranaki Regional Council, to discuss any matter relating to the exercise of this consent, in order to facilitate ongoing Iwi liaison.
13. This consent shall lapse on 30 September 2015, unless the consent is given effect to before the end of that period or the Taranaki Regional Council fixes a longer period pursuant to section 125[1][b] of the Resource Management Act 1991.
14. In accordance with section 128 and section 129 of the Resource Management Act 1991, the Taranaki Regional Council may serve notice of its intention to review, amend, delete or add to the conditions of this resource consent by giving notice of review during the months June 2013 and/or June 2016, for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this resource consent, which were either not foreseen at the time the application was considered or which it was not appropriate to deal with at the time.

For the Taranaki Regional Council:

Dated: 21 July 2010



Councillor David Lean [Chairman]



Councillor Neil Walker



Councillor Barry Marsh