

14 April 2020

Taranaki Regional Council
Private Bag 713
Stratford 4532

Email: consents@trc.govt.nz.

Dear Sir/Madam,

**Opunake Power Limited Notified Consent Applications 1795-5.0, 1796-4.0, 1797-4.0, 4563-3.0,
4744-3.0, 5581-2.0, 5692-2.0 & 10826-1.0**

I refer to the application by Opunake Power Limited for the renewal of consents relating to the operation of Opunake hydroelectric station and the requirement for new consent for the discharge of water containing sediment from the Waiaua River to Lake Opunake at SH45 Opunake river bridge (Lot1 SS6265 Sib Sec 47 Borough of Opunake Blk IX Opunake SD).

Please find enclosed a submission by the Director-General of Conservation in respect of this application. You will notice the submission seeks that the application be declined. The Department considers that the application does not adequately assess the effects of the activities on the natural habitat of the Waiaua River or the cumulative effects as they relate to loss of indigenous wading bird habitat. Therefore, the Director-General has not been provided with any level of confidence that the potential adverse effects will be avoided, remedied or mitigated as part of this activity.

The submission identifies the Director-General's concerns in greater detail.

Please contact Tom Christie in the first instance if you wish to discuss any of the matters raised in this submission (tchristie@doc.govt.nz).

Yours sincerely



Gareth Hopkins
Operations Manager
New Plymouth

Form 13: Submission on publicly notified application concerning resource consent

Resource Management Act 1991

To: Taranaki Regional Council

Name of submitter: Director-General of Conservation

Applicant: Opunake Power Limited

Locations: Lot1 SS6265 Sib Sec 47 Borough of Opunake Blk IX Opunake SD

Description of activity:

- To take water from the Waiaua River in association with the Opunake hydroelectric power scheme
- To take and use water from Lake Opunake for hydroelectric power
- To discharge sand and silt deposits from a diversion canal sand trap via a spillway to the Waiaua River
- To use an existing dam to dam the Waiaua River
- To discharge water from hydroelectric power generation through a marine outfall structure to the Tasman Sea
- To use an existing outfall structure in the coastal marine area on the Opunake Beach foreshore
- To disturb the bed of the Waiaua River by removing sediment build upstream of a weir for the purpose of maintaining the Opunake hydroelectric power scheme
- To discharge water containing sediment from the Waiaua River to Lake Opunake

Application number: 1795-5.0, 1796-4.0, 1797-4.0, 4563-3.0, 4744-3.0, 5581-2.0, 5692-2.0 & 10826-1.0

My submission relates to: The whole of the application

My submission is: I oppose the application.

The reasons for my submission are that:

Fish Passage

1. The weir across the Waiaua River has been shown to be a barrier to the upstream movement of certain native fish species.
2. Existing fish surveys in the Waiaua River have shown that inanga are unable to navigate past the weir. Some other weak swimming species such as smelt and torrentfish have occasionally been recorded upstream of the weir but in lower numbers than below the weir. This indicates that the weir is likely acting as a partial barrier to some species and a complete barrier to others.
3. The applicant is proposing to alter the operating regime to allow the lake level to be held higher for longer to allow for easier fish passage in the intake tunnels. The applicant has proposed that this change should be monitored, and if it shows that fish passage is still not being achieved then alternative options should be considered. The applicant is proposing implementing fish nets for a catch and release scheme. The Director-General of Conservation (D-G) supports the applicants efforts to better provide for fish passage, more detail is required on a trap and transfer programme to adequately assess its effects/likelihood of achieving intended outcomes.

Gravel Extraction

4. TRC noted that the gravel extraction undertaken as part of the existing consent has historically only resulted in a light discolouration downstream of the works and that no adverse effects have been noted downstream. TRC have stated that the applicant undertakes gravel extraction in a way that minimises the effects of the activity such as diverting water away from the work area. The gravel extraction activities may be having a localised impact on freshwater biodiversity at the site.
5. The D-G seeks that appropriate conditions are included to ensure that the applicant undertakes the activity using best practice methods and does not undertake extraction activities in the wet bed.

Residual Flow

6. Currently the residual flow set below the weir is 180 l/s. This represents 13.6 % of the 7-day mean annual low flow (7-day MALF) for the Waiaua River at 1319 l/s¹. The current residual flow is very low in comparison to the standard rule-of-thumb for protecting instream values which is setting a residual flow at 80 % of the 7-day MALF.
7. The current residual flow and operating regime reduces the flow variability in the lower river and causes the hydrograph to flatline at a very low flow (relative to 7-d MALF). Flatlining the flow in the lower river at such a low flow can cause issues, especially in summer, such as

¹ There are two values reported in the application, it is unknown which is the correct value

high-water temperatures, algal growth, and sediment build up. The applicant has proposed several consent conditions that would assist in mitigating the effects of the proposed abstraction regime such as altering the flow to increase variability.

8. The D-G seeks that the applicant investigate other options to mitigate the effects of the abstraction regime such as but not limited to a stepped abstraction regime, a higher residual flow, or weekly/fortnightly increases in the residual flow to simulate freshes.
9. The existing information related to habitat availability for native fish species at different residual flows has limitations associated with it. It is understood the modelling was undertaken in the range of 0 - 200 l/s. As a result, the D-G is unable to assess the habitat availability for the species (and food producing habitat curve) at flows greater than 200 l/s. The modelling should be extended outside this range to cover a wider range of residual flow options. Currently it is unknown what the habitat availability is at higher flow conditions.
10. The current residual flow is very low compared to what is used elsewhere in New Zealand. It is the D-G's position that this flow represents too severe a reduction in habitat availability for native species and the overall ecosystem. The current residual flow is akin to a low flow/drought condition. Higher levels of residual flow are therefore sought by the D-G to create habitat and alleviate some pressure upon freshwater biodiversity.

Wading Bird Habitat

11. The applicant has not provided sufficient information to assess the extent and quality of the wading bird habitat that is likely to be lost. Detailed information pertaining to the type, quality and proportion of habitat to be lost, and that which is to be retained is required. A survey of the surrounding area for bird numbers present and further information on usage is also considered appropriate. Until this is provided it is not possible to accurately assess the detrimental impacts of the Opunake power scheme upon wading birds.

Statutory Frameworks

12. As presented, the application is contrary to the purpose of sustainable management defined in Part 2 of the RMA. The application as it stands fails to ensure that adverse effects of the activities are avoided, remedied or mitigated. In particular it is inconsistent with;
 - Matters of national importance outlined in s 6(a) of the RMA
 - Other matters outlined in s 7 of the RMA, including: 7(d), 7(f) and 7(g) of the RMA;
13. The application is contrary to the objectives and policies of the NPS-FM, including:
 - Objective A1(a) To safeguard the life supporting capacity, ecosystem processes and indigenous species, including their associated ecosystems, of freshwater;

- Policies A2 and A3 which require the Council to set objectives and limits to assist improvements of water quality in water bodies;
 - Objective B1 to safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the taking, using, damming, or diverting of fresh water
 - Objective B4 which requires the avoidance of any further over-allocation of fresh water and phase out existing over-allocation.
 - Policy B7 which seek to protect the life-supporting capacity of freshwater and of any associated ecosystems.
 - Objective C1 to improve integrated management of freshwater and the use and development of land in whole catchments, including the interaction between freshwater, land, associated ecosystems and the coastal environment.
 - Policy C1 management of freshwater and land use and development in catchments in an integrated and sustainable way, to avoid, remedy or mitigate adverse effects, including cumulative effects.
14. The application is contrary to the objectives and policies of the New Zealand Coastal Policy Statement 2010, including Objective 1, and Policy 3 & 11.
15. The application is contrary to the objectives and policies of Taranaki’s planning documents, including but not limited to:
- The objectives and policies of the Taranaki Regional Policy Statement, including objectives;
 - WAL Objective 1, policies WAL 2, 3 & 4.
 - WQU Objective 1, policies WQU 6.
 - BIO Objective 1, policies BIO 1, 2, 3 & 4.
 - The objectives and policies of the Regional Freshwater Plan for Taranaki, including objectives 6.1.1, 6.2.1 & 6.6.1.
 - The D-G is concerned that the application does not adequately address the actual or potential effects on indigenous biodiversity. Section 6(a) of the Act requires that all persons exercising functions and powers under it shall recognise and provide for the protection of lakes and rivers and their margins. As the application does not provide sufficient information to assess the ecological values of the site, it fails to give effect to Section 6(a) of the Act.

Decision sought:

That the applications in their current form are **declined** unless appropriate conditions and mitigation methods are placed upon the consent.

I **do wish to be heard** in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

I am not a trade competitor or surrogate under section 308A and for the purposes of section 308B of the Act.



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Gareth Hopkins
Operations Manager
New Plymouth
Acting pursuant to delegated authority

14/04/2020

Date

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

Address for service:

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Department of Conservation
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Tauranga 3142
Attn: Tom Christie
Or
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