

## Your Comment on the Maitahi Village

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email at [substantive@fastrack.govt.nz](mailto:substantive@fastrack.govt.nz)

<b>1. Contact Details</b>			
Please ensure that you have authority to comment on the application on behalf of those named on this form.			
<b>Organisation name (if relevant)</b>	Department of Conservation		
<b>First name</b>	Gen		
<b>Last name</b>	Hewett		
<b>Postal address</b>	PO Box 10420, Wellington 6140		
<b>Home phone / Mobile phone</b>		<b>Work phone</b>	
<b>Email</b>	<a href="mailto:fast-track@doc.govt.nz">fast-track@doc.govt.nz</a>		

<input checked="" type="checkbox"/>	I can receive emails and my email address is correct	<input type="checkbox"/>	I cannot receive emails and my postal address is correct
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Please provide your comments below, include additional pages as needed.

Please find comments attached



Jenni Fitzgerald  
Fast-Track Applications Manager

Acting pursuant to delegated authority on behalf of the Director-General of Conservation.

Date: 12/08/2025

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

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## Comments on draft conditions for a fast-track consenting application

### Fast-track Approvals Act 2024 section 70

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**To:** The Expert Panel

**From:** Director-General of Conservation

**Regarding fast-track project:** Maitahi Village

1. Thank you for the opportunity to comment on the draft conditions for the Maitahi Village Fast-track application.

#### Management Plans

2. The Department's comments relate to the management plans as set out in the conditions. The Department is appreciative of the applicant's willingness to provide management plan conditions in the resource consent to give effect to the recommendations as set out in the supporting reports and documents. However, DOC considers that the management plan conditions do not provide sufficiently objective standards against which a council officer could certify management plans. The completion or amendment of management plans via certification after consent has been granted creates a risk of unlawful delegation. While conditions can allow an officer to "certify" the completion of a management plan or amendments to management plans in appropriate circumstances,<sup>2</sup> certification must not, in effect, constitute approval. It is for the Panel to make a final decision, and not council officers, who can exercise the power to grant approvals under the Fast-track Approvals Act 2024.
3. Under the conditions as proposed, DOC considers that the applicant's proposed approach to the variation of management plans would in effect delegate the function of determining requirements for the mitigation of adverse effects, and the extent of effects that are acceptable. What is considered acceptable is fundamental to whether consent can and should be granted in the first place. The Department considers reliance should

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<sup>2</sup> *Turner v Allison* [1971] NZLR 833 (CA) at 856 line 24.

not be placed on unenforceable qualitative objectives of management plans for a council officer to consider. Any management plans proposed as part of the consents should be approved by the Panel.

#### Inconsistent wording across consents

4. Several of the resource consent conditions proposed appear to cover the same content across multiple consents. This has led to some slight variations in wording across the documents which leads to confusion about which version of the wording is the most appropriate. An example of this is between the Land use (s9) condition 65 and Land use (s13) condition 58:

- a. Condition 65:

##### **Decommissioning of Old Channel**

Within 10 working days of diverting flows into the new Kākā stream channel, the Consent Holder shall decommission the existing stream channel and incorporate it into the general earthworks area, in accordance with the approved Stage 1 ~~Site-Specific Erosion and Sediment Control Plan (SSESCP)~~.

- b. Condition 58:

##### **Decommissioning of Old Kākā Stream Channel – Reclamation**

Within 10 working days of diverting flows into the new Kākā stream channel, the Consent Holder shall decommission (reclaim) the existing Kākā Stream channel and incorporate it into the general earthworks area, in accordance with the approved Stage 1 Site-Specific Erosion and Sediment Control Plan (SSESCP).

5. A separate document that outlines conditions common to all the resource consents would solve this problem. It would allow for consistent wording across all consents. Implementing this across the consents would only require a condition at the beginning of the resource consents that requires the consent to be complied with the common conditions.

#### Stream Mitigation Assessment

6. The document mentioned in Land use (s9) condition 49.e, the Stream Mitigation Assessment (SMA), is the basis of ensuring that environmental standards are met for the stream ecological values. The SMA is substantial and would require in-depth analysis to ensure the provided methods and results reflect site-specific conditions. Due to the short timeframe proposed to comment on the conditions, the Department has not commented in depth on the SMA. However, there are aspects of the SMA which are flawed.

7. In particular, the SMA provides some limitations of its applicability (for instance, value estimates based on anticipated methods but not verified, such as Vbank, Vbarr). The Stream Ecological Valuation (SEV) method says in principle it should be used with caution for intermittent streams and outside of the Auckland context for which it was designed.<sup>3</sup> The Kākā stream is an intermittent stream in Nelson by contrast.
8. When assessing a stream's ecological functioning, there are three broad categories:
  - a. Habitat, including flow regime and geomorphology;
  - b. Water quality and biogeochemical functioning; and
  - c. Biota.
9. The SEV that is ultimately used in the environmental compensation ratio to determine the extent of compensation needed to establish that there has been "no-net loss" does not include the biotic functions relating to fish and macroinvertebrates. Fish and macroinvertebrates are not included due to the difficulty of predicting changes to those communities. However, even if the changes are difficult to calculate under the SEV, there should be some form of performance target within the consent conditions that require the stream to be suitable for the fish species known to be present within the tributaries.
10. Condition 49.h states that there needs to be monitoring protocols for macroinvertebrates and fish. There should be a requirement for baseline survey of macroinvertebrates and fish to be done before the reclamation and decommission of the Kākā stream occurs to understand what the existing environment is. Further, there should a requirement to reinstate the macroinvertebrate and fish population levels to the original baseline survey levels to achieve no-net loss, giving effect to the National Policy Statement for Freshwater Management 2020.
11. Finally, the SMA states at section 8 that "Robertson Environmental Limited has relied upon information provided by the Client to inform parts of this document, some of which has not been fully verified by Robertson Environmental Limited".<sup>4</sup> It is uncertain where the information from the client/applicant came from and therefore the validity of the information cannot be confirmed. Further, it is uncertain what information came from the applicant and what information was obtained by Robertson Environmental Limited.
12. Clarification and improvement of the SMA is sought to ensure that the no-net loss outcome is achieved. There conditions should include a performance standard in reference to macroinvertebrates and fish.

### Specific amendments

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<sup>3</sup> Auckland Council "Stream Ecological Valuation (SEV): A User's Guide" (2015).

<sup>4</sup> At 8, page 14.

13. The Department has also specific comments on certain conditions. These are laid out in the table below.

#### Land use consent (section 9) – Earthworks and vegetation clearance

Condition #	Comments and reasoning
16	The SSESCPs are to be generated for each construction area identified in Appendix C. There are no mention of the Gibbs and Jickell bridges works that would also require a SSESCP. This would also affect the scope of the conditions of 18 and 48, as they only relate to the Kākā Stream and affected tributaries. To ensure the adverse effects on the Kākā Stream are appropriately managed, the Gibbs and Jickell bridges works must also have a SSESCP.
18.iv	The paragraph should contain explicit conditions that state when rapid or progressive stabilisation need to be initiated and under which trigger. The same triggers should be provided for permanent or temporary stabilisation. An alternative could instead be: “Stabilisation of disturbed areas using mulch, aggregate, geotextiles or other methods appropriate for the conditions at site will be on-going during the earthwork phases. Stabilisation may involve both permanent and temporary methods. Temporary stabilisation will apply particularly with respect to stockpiles, ground improvement locations where topsoil is removed, concentrated flow paths and batter establishment. Stabilisation is designed for both erosion control and dust minimisation and may be progressive or rapid.”
18.iv	Visual inspection of the downstream environment is a subjective test and the condition should instead require water quality standards such as clarity/turbidity, and whether clarity/turbidity differ upstream or downstream of the work sites. Visual clarity further may not provide information as to whether there are unwanted contaminants in the water from the activities.
47.b	Point 4 states that the adverse effects of activities near the SNA must be avoided, remedied, or mitigated. The NPSIB states at 3.10(2) that for any new subdivision there are five effects that must be avoided, and then 3.10(3) requires any other effects to be managed using the effects management hierarchy.
49.h	The list should include in-stream habitat indices.

- 51.e A minimum of 10 m buffer is adequate to reduce nutrient and other contaminant inputs for slopes that are under 10°. For steeper slopes, it is suggested 20 m instead for best practice and outcomes.<sup>5</sup>
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**Comments on draft conditions of water permit (s14) – Temporarily dam and diver water for construction purposes, and for the diversion of Kākā Steam**

Condition #	Draft condition with track-changed suggestions	Comments and reasoning
NEW	<u>No instream works should be undertaken during spawning times for the native fish species present in the stream. Culvert design should follow <a href="#">New Zealand Fish Passage Guidelines   Earth Sciences New Zealand   NIWA</a></u>	The Department has recommended this condition for the applicant to abide by best practice.

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14. The Department is happy to answer any questions the Panel has on its comments on the draft conditions.

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<sup>5</sup> A Fenemor and O Samarasinghe "Riparian setback distances from water bodies for high-risk land uses and activities" (September 2020) *Manaaki Whenua – Landcare Research* Contract Report: LC3832 at table 12.