

Relevant local authorities: Hamilton City Council, Waikato District Council and Waikato Regional Council

Resource consent(s) / designation required:

- Land use consents – Hamilton City Council District Council
- Water take consents – Waikato Regional Council
- Land use consents – Waikato Regional Council
- Discharge consent – Waikato Regional Council
- No consents required from Waikato District Council.
- Outline Plan of Works will be required.
 - The Rotokauri Greenway is already designated.
 - The Minor Arterial will go through an NOR process in due course. We have opted to progress the design and construction of the Minor Arterial in the first instance via land use consent. We consider this an appropriate approach as the applicant does not have the power to issue a notice of requirement and the design agreement with HCC requires the applicant to obtain all relevant consents to enable construction. The NOR that would apply to the minor arterial is part of a much larger infrastructure project and a number of delays associated with that wider project have delayed the timing so that it is not clear when that NOR will issue. Clause 28(3) of Schedule 6 to the Act does not apply to this issue because the applicant, Hounsell Holdings Limited is making the fast-track application and will seek and obtain any relevant consents. Hamilton City Council is an entirely separate entity and is the only body that could issue a notice of requirement for the arterial. In any event, we anticipate that the timing may well not overlap.
- Section 176 Requiring Authority Approval required from Waka Kotahi New Zealand Transport Agency
 - This has been applied for and we see no reason why this Requiring Authority Approval would not be obtained.

For the purpose of this referral application, we outline our interpretation of the wetland legislation. For the purposes of the NES-FW, the Rotokauri Greenway and Minor Arterial are considered 'specified infrastructure', because:

- a) The Rotokauri Minor Arterial under the NPS-FW is "infrastructure that delivers a service operated by a lifeline utility", because:
 - i. The Civil Defence Emergency Management Act 2002 says that lifeline utilities provide for the disposal of storm water, as well as for road networks;
- b) The Rotokauri Minor Arterial is also 'regionally significant infrastructure' under the NPS-FW, because:
 - i. The Waikato Regional Policy Statement states that 'significant transport corridors as defined in Map 25 and 26' are regionally significant infrastructure; and
 - ii. The Rotokauri Minor Arterial is a 'specified future corridor' on Map 26.
- c) The Rotokauri Greenway is also designated for stormwater collection, detention and conveyance purposes and therefore also falls under the public drainage category.
- d) The Rotokauri Greenway is a designated corridor, administered by Hamilton City Council as the Requiring Authority.

Where dewatering during construction to lower the groundwater table or maintain a dry environment within excavations is undertaken from a sumped area or base on an excavation, the take is classified as a surface water take.

If the total take volume is synchronously discharged, WRC may be able to consider the take a “net zero” take and consent would be required as a **Discretionary Activity under Rule 3.3.4.23** otherwise, consent would be required as a **Non-Complying Activity under Rule 3.3.4.26**. Therefore, the proposal may require resource consent as a Non-complying Activity, which requires, the proposal is required to be assessed under Section 104D of the Resource Management Act 1991 (‘RMA’). This Section 104D assessment will be limited to this trigger.

104D Particular restrictions for non-complying activities

- 1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- 2) *To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.*

A full assessment of Section 95 of the RMA has not yet been completed; however, it has been assumed that this proposal could potentially generate more than minor effects and therefore the second arm of the ‘gateway test’ being Section 104D(1)(b) would need to be satisfied.

For completeness, it is noted that initial assessments of the proposal against National Policy Statements and National Environmental Standards has been carried out and can be found in a subsequent section of this referral application. The planning hierarchy requires both Regional and District Plans to give effect to these documents. The assessment outlined in the subsequent section of this application outlines that this proposal is consistent with these national planning documents.

A robust objectives and policies assessment will be included with the resource consent application, however, for the purpose of this referral application it was considered more appropriate to identify the most relevant objectives and policies that relate to the non-complying consent trigger. The following section broadly assesses the relevant objectives and policies of the Waikato Regional Plan that relate to the surface water take.

Overall, this assessment confirms that the proposal will not be contrary to the objectivities and policies, as the Rotokauri Greenway is a piece of specified infrastructure which will support a large residential development, which will benefit current and future communities’ wellbeing. The function of the Rotokauri Greenway is to manage and filter contaminants from stormwater, which will improve the water quality of the region, specifically Lake Waiwhakareke and Lake Rotokauri.

Waikato Regional Plan

3.1. Water Resources

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Kerikeri | Whangārei | Warkworth | Auckland | Hamilton | Cambridge | Tauranga | Napier | Wellington | Christchurch | Queenstown | Wānaka

Objective

The management of water bodies in a way which ensures:

- (a) That people are able to take and use water for their social, economic and cultural wellbeing***
- (b) Net improvement of water quality across the Region*
- (c) The avoidance of significant adverse effects on aquatic ecosystems*
- (d) The characteristics of flow regimes are enhanced where practicable and justified by the ecological benefits*
- (e) The range of uses of water reliant on the characteristics of flow regimes are maintained or enhanced*
- (f) The range of uses of water reliant on the characteristics of flow regimes are maintained or enhanced*
- (g) Inefficient use of the available ground surface water resources is minimised***
- (h) An increase in the extent and quality of the Region's wetlands*
- (i) That significant adverse effects on the relationship tangata whenua as Kaitiaki have with water and their identified taonga such as waahi tapu, and native flora and fauna that have customary and traditional uses in or on the margins of water bodies, are remedied or mitigated*
- (j) The cumulative adverse effects on the relationship tangata whenua as Kaitiaki have with water their identified taonga such as waahi tapu, and native flora and fauna that have customary and traditional uses that are in or on the margins of water bodies are remedied or mitigated*
- (k) The management of non-point source discharges of nutrients, faecal coliforms and sediment to levels that are consistent with the identified purpose and values for which the water body is being managed*
- (l) The natural character of the coastal environment, wetlands and lakes and rivers and their margins (including caves), is preserved and protected from inappropriate use and development*
- (m) Ground water quality is maintained or enhanced and ground water takes managed to ensure sustainable yield*
- (n) Shallow ground water takes do not adversely affect values for which any potentially affected surface water body is managed*
- (o) Concentrations of contaminants leaching from land use activities and non-point source discharges to shallow ground water and surface waters do not reach levels that present significant risks to human health or aquatic ecosystems*
- (p) That the positive effects of water resource use activities and associated existing lawfully established infrastructure are recognised, whilst avoiding, remedying or mitigating adverse effects on the environment.***
- (q) Refer to Objective 3.A.1.*

The Rotokauri Greenway will permanently lower the local water table in the local area. Temporary construction effects will require dewatering during construction to lower the water table or maintain a dry environment within excavations is undertaken from a sumped area or base, which is classified as a surface

water take. This is required for the Rotokauri Greenway to achieve its function, which will occur on a temporary basis through the Greenway’s construction. As outlined in the Objective above, this proposal enables people to use the water to benefit their social, economic and cultural wellbeing. **The Rotokauri Greenway is a piece of specified infrastructure which will support a large residential development, which will benefit current and future communities’ wellbeing. The function of the Rotokauri Greenway is to manage and filter contaminants from stormwater, which will improve the water quality of the region, specifically Lake Waiwhakareke and Lake Rotokauri.** This is an efficient use of the available ground surface water resource, which will occur on a temporary basis.

Significant adverse effects on the relationship tangata whenua as Kaitiaki have with water are avoided, remedied or mitigated. Local tangata whenua have been consulted through this process, which will continue throughout the development.

The Rotokauri Greenway has been designed in a manner that incorporates the existing natural character of the water bodies, with minimal disruption to the character of the Lakes, and elements (such as native planting) incorporated throughout the Greenway to create consistency through between the two Lakes via the corridor, as shown in **Attachment 3**.

3.2. Management of Water Resources

Policies		
<i>Policy 1: Management of Water bodies</i>		
<i>Manage all water bodies to enable a range of water use activities, whilst ensuring that a net improvement in water quality across the Region is achieved over time through:</i>	(b)	<i>Maintaining overall water quality in areas where it is high, and in other water bodies, avoiding, remedying or mitigating cumulative degradation of water quality from the effects of resource use activities.</i>
	(c)	<i>Enhancing the quality of degraded waterbodies</i>
	(d)	<i>Providing for the mitigation and remediation of adverse effects in accordance with Section 1.3.3 of the Waikato Regional Policy Statement.</i>
<i>Policy 3: Natural Character</i>		
<i>Recognise, and where relevant provide for, the following characteristics when considering the preservation of the natural character of lakes and rivers and their margins and the protection of them from inappropriate use and development:</i>	(a)	<i>Diversity and composition of aquatic and riparian habitat.</i>
	(b)	<i>Topography and physical composition of river and lake beds and the course of the river</i>
	(c)	<i>The natural flow characteristics and hydraulic processes (such as sediment transport) of rivers and streams or the pattern and range of water level fluctuations that occur naturally in rivers and lakes.</i>
	(d)	<i>Any significant natural features of the lakes and rivers and their margins.</i>

Objective 3.3.2 requires the proposal to give effect to the overarching purpose of the Vision and Strategy (Te Ture Whaimana) to restore and protect the health and wellbeing of the Waikato River for present and future generations. Te Ture Whaimana encompasses the vision for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come. The surface water take is required on a temporary basis to enable the development of the Rotokauri Greenway,

which has the function to manage and filter contaminants from stormwater, which will improve the water quality of the region, specifically Lake Waiwhakareke and Lake Rotokauri.

Extensive vegetation will be introduced as part of the Rotokauri Greenway, which will be in accordance with the Waikato Regional Council's Regional Pest Management Strategy. This will support the maintenance of the natural character and enhancement of the natural environment.

3.3. Water Takes

Objective 3.3.2

In addition to Objective 3.1.2, the management of water allocation and use in a way which ensures:

- (a) *Giving effect to the overarching purpose of the Vision and Strategy to restore and protect the health and wellbeing of the Waikato River for present and future generations.*
- (b) *The availability of water to meet the existing and the reasonably justified and foreseeable future domestic or municipal supply requirements of individuals and communities and the reasonable needs for an individual's animal drinking water requirements.*
- (c) The *recognition of the significant community benefits that derive from domestic or municipal supply takes.*
- (d) *The efficient allocation and the efficient use of water.*
- (e) No further allocation of water that exceeds the primary allocation in Table 3-5 that reduces the generation of electricity from renewable energy sources.
- (f) The recognition that existing water takes contribute to social and economic wellbeing and in some cases significant investment relies on the continuation of those takes, including rural-based activities such as agriculture, perishable food processing and industry.
- (g) The continued availability of water for cooling of the Huntly Power Station.
- (h) Sufficient water is retained instream to safeguard the life supporting capacity of freshwater, including its ecosystem processes and indigenous species and their associated ecosystems.
- (i) That decisions regarding the allocation and use of water take account of the need to avoid the further degradation of water quality, having regard to the contaminant assimilative capacity of water bodies.
- (j) Subject to Objectives a) to h) above, the availability of water to meet other future social, economic and cultural needs of individuals and communities (including rural-based activities such as agriculture, perishable food processing and industry).
- (k) Refer to Objective 3.A.1.

Policies

Policy 1: Establish Allocable and Minimum Flows for Surface Water

Establish and review allocable and minimum flows for surface water bodies which are to be used when assessing authorised water takes and resource consent applications from surface water bodies while having particular regard to the following matters:

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| (a) | <u><i>Giving effect to the overarching purpose of the Vision and Strategy to restore and protect the health and wellbeing of the Waikato River for present and future generations.</i></u> |
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(b)	The recognition of the relationship between tangata whenua with water bodies and providing for tangata whenua input in determining their values and interests, and reviewing the allocable and minimum flows for those surface water bodies.
(c)	The maintenance and enhancement of water quality in accordance with the policies in Chapter 3.2 of this Plan.
(d)	<u>The avoidance of further degradation of water quality having regard to the contaminant assimilative capacity of water bodies.</u>
(e)	The benefits of flow regime variability, including sediment transport and natural flushing and flood flows.
(f)	<u>The avoidance of significant adverse effects on in stream ecological values and biodiversity and the remediation or mitigation of adverse effects otherwise.</u>
(g)	The protection of wetlands and areas of significant indigenous vegetation and significant habitats of indigenous fauna.
(h)	The security of existing, efficient take and use of water and the associated lawfully established infrastructure.
(i)	Maintenance and enhancement of tangata whenua uses and values of water, including the ability to exercise kaitiakitanga and measures to protect and enhance the mauri of water bodies.
(j)	Maintenance of identified recreational and intrinsic values and the natural character of rivers.
(k)	The benefits derived from the use of water for, or directly associated with, the generation of electricity from renewable energy sources and the cooling of the Huntly Power Station.
(l)	The benefits derived from the existing take and consumptive use of water for people's social, economic and cultural wellbeing.
(m)	The benefits to be derived from the efficient take and use of water for reasonably foreseeable future consumptive uses, and in particular existing and reasonably justified and foreseeable future needs for domestic or municipal supply and the reasonable needs for an individual's animal drinking water
(n)	The effects of climate change on surface water resources.

Policy 11: Consent Application Assessment Criteria – Surface Water

When assessing resource consent applications for surface water takes and/or any associated water use, the effects of these activities shall be assessed individually and cumulatively with all other existing or authorised (or currently applied for) water take and use activities. In doing so the Council shall have particular regard to the following matters:

(a)	<u>Whether the proposed take would adversely affect the restoration and protection of the health and wellbeing of the Waikato River</u>
(b)	<u>The effect of the activity on the relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga</u>
(c)	Phasing out any existing allocation of surface water that exceeds the combined primary and secondary allocable flows in Table 3-5, or exceeds the water harvesting limits in Policy 20 b) by 31 December 2030 in accordance with Policy 19
(d)	Whether the applicant has <u>demonstrated a need for the volume and rate of water sought</u> , taking into account the applicant's seasonal and rotational requirements (if any), and has proposed appropriate water efficiency measures including an assessment of measures to be taken to reduce the take and use during water shortage conditions as defined in Policy 17
(e)	The need to ensure that <u>surface water is available for existing and reasonably justified and foreseeable future domestic or municipal supply</u> needs identified in a water management plan that meets the requirements of Method 8.1.2.2, stock drinking water requirements and fire fighting purposes

(f)	<u>The significant social and economic benefits associated with the take and use of water for domestic or municipal supply</u>
(g)	With the exception of water harvesting undertaken in accordance with Policy 20 and Rule 3.3.4.22 and takes associated with renewable electricity generation, any need to limit the duration of a water take consent, impose conditions to provide for the review of the volume of water taken pursuant to a consent, or to decline to grant a water take consent, all in order to enable domestic or municipal supply takes required for future growth.
(i)	The significance of the social and economic benefits that derive from existing takes and the significance of the investment that relies on the continuation of those takes
(j)	The potential adverse effects on existing users of granting a consent which may result in the allocation of a catchment exceeding the combined primary and secondary allocable flows in Table 3-5
(k)	Subject to the matters listed in a), e) and h) of this Policy, the social and economic benefits that may arise from the take and use of water (including rural-based activities such as agriculture, perishable food processing and industry.)
(l)	The net effect of the take on water quality in the water body from which the water will be taken i.e. whether the further degradation of water quality is avoided (having regard to the flow rates and contaminant concentrations in that water body)
(m)	Whether the applicant has demonstrated adequate consideration of alternative water sources including water harvesting and water reuse and that the current application is industry good practice
(n)	The effects on the water body of any associated discharge of contaminants, (either point source or diffuse) arising from the take and use
(o)	Whether existing lawful takes will be adversely affected, including those granted by neighbouring regional councils where water bodies cross regional boundaries
(p)	Impacts on, and integration with, other existing authorised uses of the relevant water body (including customary uses)
(q)	Whether Tangata Whenua uses and values, including the mauri of water, are maintained or enhanced
(r)	The effects on ecological values and biodiversity and the benefits of the natural flow regime variability, including sediment transport and natural flushing and flood flows
(s)	<u>The need to ensure that water bodies are not over-allocated</u> (having regard to the current allocation limits of the water body as indicated by Table 3-5 and to the provisions of Policy 6, Policy 9 and Method 3.3.4.10.k)
(t)	In the case of an application for the replacement of an existing resource consent, whether the applicant has demonstrated a continued need for the volume and rate of water, taking account of seasonal and rotational requirements, applied for based on water use records, the efficiency of the use of the resource, any enforcement action taken by Council in respect to the previous consent and use of industry good practice
(u)	Any improvements in water take and use infrastructure, and whether adequate metering, data collection and leak detection mechanisms are adopted
(v)	<u>The effects of the abstraction on wetlands, areas of significant indigenous vegetation, or significant habitats for indigenous fauna</u>
(w)	The effects of the take and associated intake structure on fish passage and fish migration, and the potential for the entrainment of aquatic organisms
(x)	Whether appropriate mitigation measures are to be implemented, including the maintenance of adequate environmental flows or flow regimes, the location of the abstraction, the maintenance of fish passage, the application of riparian planting, or other measures;
(y)	Using site specific flow measurement methods where practicable to ensure compliance with water restrictions

(z)	<i>Demonstration that physical access to the water does not adversely affect any other land and/or property owner</i>
(aa)	<i>In the case of temporary transfers; the extent to which the consent has already been given effect to on the site which the original consent relates</i>
(ab)	<i>The requirements of the National Environmental Standard for Human Drinking water.</i>

Policy 15: Consent Duration for the Taking of Water

(a)	<p><i>Subject to Policy 19, the Waikato Regional Council will generally ensure that all resource consents for the take of surface and groundwater shall have a term no longer than 15 years except those consents:</i></p> <ul style="list-style-type: none"> <i>i. for domestic or municipal supply.</i> <i>ii. for the primary purpose of, or directly associated with, electricity generation.</i> <i>iii. which are assessed as having a zero net take and do not restrict the further allocation of water.</i> <i>iv. for the purpose of managing the flow or level regimes of rivers or aquifers (e.g. other dewatering and/or water level control, ecological purposes, pit or lake filling for rehabilitation and flood control, mine water management) where the take does not or is not likely to during the consent term limit other users from being allocated water, or result in any adverse effects listed in Policy 1 and 4.</i> <i>v. for large scale, capital intensive industrial facilities such as mines, dairy factories, pulp mills and water harvesting infrastructure.</i>
(b)	<i>Consents granted for the activities listed in a) i) to v) above shall be for a term that is appropriate in the circumstances and that term may exceed 15 years.</i>
(c)	<i>Consents for takes other than those listed in a) i) to v) above may be granted for a duration shorter than 15 years where appropriate in order to ensure the availability of water to meet the existing and reasonably justified and foreseeable future domestic or municipal supply needs identified in a water management plan the meets the requirements of Method 8.1.2.2.</i>
(d)	<i>All consents for takes, except surface water zero net takes, shall include provision for a review within one year of the completion of a relevant catchment investigation undertaken in accordance with Method 3.3.4.9 and, if applicable, a consequent change to the Waikato Regional Plan being proposed.</i>

Policy 16: Water Take Recording and Reporting

Except as provided for in part g) of this policy, as a means of assessing compliance with consents for the taking of water, the Waikato Regional Council will require resource consent holders, through conditions to:

(a)	<p><i>Install a tamper-proof water-measuring device to manufacturer's specifications with:</i></p> <ul style="list-style-type: none"> <i>i. a minimum accuracy under field conditions of +/- 5 percent for piped takes or +/- 8 percent for open channel takes, and</i> <i>ii. a pulse output if optimum recording is required by Table 3-4,</i>
(b)	<i>Provide an "as built" plan of the installed water measuring device prior to giving effect to any consent to take water</i>
(c)	<i>Record and report water take data for all consented surface water takes at a frequency and in a manner described in Table 3-4</i>
(d)	<p><i>Record water take data for all consented groundwater takes at a frequency and in a manner to achieve:</i></p> <ul style="list-style-type: none"> <i>i. Minimum recording on a weekly basis and minimum reporting twice yearly in January and June for all consented groundwater takes less than 1500 cubic metres per day, or</i> <i>ii. Minimum recording and reporting on a daily basis with data logger for all consented groundwater takes greater than 1500 cubic metres per day, or</i>

	<p>iii. <i>Reduced or enhanced recording and reporting requirements as determined by the Waikato Regional Council as appropriate in response to the adverse effects associated with the groundwater take.</i></p>
(e)	<p><i>Complete a calibration(s) of the water measuring device and a water use audit(s) during the term of the consent at a frequency and to the standard specified in the consent conditions.</i></p>
(f)	<p><i>In any situation where it is physically not practical to meet parts a) to e) in Policy 16 the following shall apply:</i></p> <ul style="list-style-type: none"> <i>i. The consent holder shall establish a methodology for estimating the amount of water taken, and shall obtain the approval of the Consent Authority that the method is appropriate for the type of take, and the time frame for collecting water use data.</i> <i>ii. The consent holder shall record the volume of water taken, using the methodology established in Policy 16 part f) i), at a minimum of daily intervals for surface water takes and at least weekly intervals for groundwater takes and keep records of each date and corresponding water use measurement.</i> <i>iii. The water use records shall be submitted to the consent authority, at intervals of at least one year.</i>
(g)	<p><i>Parts a) to e) of this policy shall not generally apply to authorised takes of less than 50 cubic metres per day using pumps with a capacity of 2 litres per second or less. The 50 cubic metres per day shall be inclusive of any water taken under s14(3)(b) of the RMA.</i></p>

Objective 3.3.2 requires the proposal to give effect to the overarching purpose of the Vision and Strategy (Te Ture Whaimana) to restore and protect the health and wellbeing of the Waikato River for present and future generations. Te Ture Whaimana encompasses the vision for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come. The surface water take is required on a temporary basis to enable the development of the Rotokauri Greenway, which has the function to manage and filter contaminants from stormwater, which will improve the water quality of the region, specifically Lake Waiwhakareke and Lake Rotokauri.

This is an efficient allocation and use of the water resource, which will occur on a temporary basis, to serve a large residential development. This development will enable significant community benefits to deliver approximately 7,000 homes for approximately 20,000 people.

Ongoing monitoring and reporting in relation to the sought surface water take will occur in accordance with the Waikato Regional Plan.