

BEFORE INDEPENDENT COMMISSIONERS APPOINTED BY THE SOUTHLAND REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND IN THE MATTER of various resource consent applications for periodic openings of Waituna Lagoon Waipārera by Te Rūnanga o Awarua, the Department of Conservation and the Southland Regional Council (Environment Southland) [the Applicants]

Application No. **APP-20242456**

**Evidence of Lisa Thorne – Planning
on behalf of the Applicants
Dated: 11 July 2025**

Department of Conservation | *Te Papa Atawhai*

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Executive Summary

1. The purpose of my planning evidence is to provide further evaluation of the application for resource consents to provide for periodic openings of Waituna Lagoon to the sea, having considered the submissions received, the s42A Report and recommendations, and expert evidence. I am the author of the Resource Consent Application and Assessment of Environmental Effects.
2. My evidence provides a description of the application, the activities requiring resource consent, and the environment upon which adverse effects are assessed. I provide an update to my previous assessment of actual and potential adverse effects on the environment, taking into consideration the submissions, s42A report, and the evidence of others. I have further considered the relevant provisions under Section 104(1)(b) of the Resource Management Act (RMA), and the Section 104D 'gateway test'.
3. The recommended conditions of consent from the s42A report have been reviewed, and I recommend minor changes and several additions and deletions to appropriately manage adverse effects during the proposed 20-year consent term.
4. My overall view is that effects on the environment will be positive and where effects are adverse these are temporary in response to opening events, are no more than minor, and can be appropriately managed by conditions requiring monitoring and review to make any necessary adaptive changes in response. I consider the application is not contrary to the objectives and policies of the relevant planning documents, both limbs of the 104D gateway test are passed, and the application is consistent with the sustainable management purpose and principles of Part 2 of the RMA.
5. I therefore consider that the resource consent application is eligible to be granted in accordance with the conditions of consent recommended at **Appendix 1**.

Introduction

1. My full name is Lisa Thorne.
2. I have been asked by the Applicants to provide expert planning evidence on their application for resource consents to provide for periodic openings of Waituna Lagoon to the sea.

Qualifications and experience

3. I am a Partner at Taylor Planning Limited and have been in my role for two years. I have 16 years' experience in resource management planning, policy, and strategy. This has included working in local government, consultancies, and central government.
4. Prior to my current role, I worked for the Department of Conservation (DOC) for twelve months as a Senior RMA Planner. I spent the previous five years in planning consultancies, as a Planning Manager, employed by 4Sight Consulting Limited, and as an Associate Planner, employed by Mitchell Daysh Limited. Prior to 2016, I spent my first 8 years of practice as a local government planner in resource consenting, policy, and strategy roles in district, regional and unitary authorities in Auckland and Dunedin.
5. I hold a Master of Environmental Planning, an Honours of Environmental Planning (First Class), and a Bachelor of Social Sciences with a double major in Environmental Planning and Geography, from the University of Waikato.
6. I am an accredited Resource Management Act (RMA) decision maker through the Ministry for the Environment Making Good Decisions certification programme. I am a full member of the New Zealand Planning Institute, and the co-chair of the New Zealand Planning Institute Otago Branch.
7. I am experienced in resource consent preparation, processing and decision making, as well as policy development, preparation and presentation of planning evidence at council level RMA hearings and to the Environment Court on district and regional planning matters.
8. I have provided planning expertise to the applicants in relation to Waituna Lagoon since 2022. I am the author of the resource consent application.

Code of Conduct

9. Although this is a Council hearing, I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2023 (the Code). I have complied with the Code when preparing my written statement of evidence.
10. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence below. The reasons for the opinions expressed are also set out in the evidence below.
11. Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
12. For the avoidance of doubt, in providing this evidence as an expert witness in accordance with the Environment Court Code of Conduct, I acknowledge that I have an overriding duty to impartially assist the Commissioners on matters within my area of expertise. The views expressed are my own expert views, and I do not speak on behalf of the Applicants.

Scope

13. I have been asked to provide planning evidence in relation to the application.
14. My evidence addresses the following matters:
 - a. Application description;
 - b. The activities requiring resource consent, and activity status under the relevant rules;
 - c. The environment upon which adverse effects are assessed;
 - d. The actual and potential adverse effects on the environment;
 - e. An assessment of the relevant provisions under Section 104(1)(b) of the RMA;
 - f. The Section 104(1)(b) 'gateway test'; and
 - g. The consent term, and proposed consent of consent.

Material Considered

15. In preparing my evidence I have read and relied upon the following documents:

- a. All application documents as lodged on 5 July 2024, including¹,
 - i. Appendix B Science Advisory Report: Technical Review of Conditions for Opening Waituna Lagoon, dated June 2024, and prepared by H. Robertson, N. Atkinson, M. de Winton, M. Schallenberg, R. Holmes, A. Rabel, K. Wilson, C. Jenkins, D. Whaanga.
 - ii. Appendix H Cultural Values Report: Mana Whenua Values, Associations and Connection to Waipārera ('Cultural Values Report'), dated 2023, and prepared by Te Ao Marama Inc. for Te Rūnanga o Awarua.
 - iii. Appendix N Consultation Strategy and Material: Outlines the consultation approach taken to inform the development of the application, the written communications with the parties consulted, and any formal written responses received.
- (a) Additional application information provided on 26 November 2024, 14 May 2025, and 23 June 2025, including:
 - i. Supplied on 26 November 2024:
 - a. Memo - Advice on impact to the Coastal Marine Area from Waituna opening - Ash Rabel;
 - b. Review of Waituna Lagoon water balance modelling - Richard Measures – NIWA;
 - c. Validation of Waituna Lagoon inundation and land drainage modelling - Richard Measures – NIWA; and
 - d. Draft Communications Management Plan (CMP) - superseded by current CMP.
 - ii. Supplied on 14 May 2025:

A Consent Application Update that:

¹ All appendices are read and relied on, but for brevity, only those appendices specifically referenced in my evidence are listed.

- a. responds to a number of the concerns raised by submitters at the pre-hearing meeting; and
 - b. attached an updated set of proposed conditions of consent (superseded by those attached to my evidence) and updated draft CMP.
- iii. Supplied on 23 June 2025:

Response to Requests for Further Information, which includes:

- a. A response provided by Mr Rabel regarding erosion and sediment effects, and effects on the Coastal Marine Area;
 - b. A response my Mr Jacques regarding effects on avifauna values;
 - c. A draft Monitoring Plan and associated updates to conditions;
 - d. An assessment of effects on fringing wetlands by Dr Roberston;
 - e. A further assessment which considers observations from recent opening events from Mr Rabel;
 - f. A further s104 statutory assessment on specified provisions; and
 - g. An assessment of the effects of the proposed changes of conditions.
- (b) The Regional Council Notification report dated 5 August 2024.
- (c) The s42A Report provided on 4 July 2025 and all appendices², including:
- (i) The Pre-Hearing Meeting Report dated 31 March 2025;
 - (ii) The Technical Review Report dated 30 May 2025; and
 - (iii) The recommended conditions of consent dated 4 July 2025.

² All appendices are read and relied on, but for brevity, only those appendices specifically referenced in my evidence are listed.

- (d) The Resource Management Act 1991, and all relevant statutory documents in accordance with s104(1)(b) and (c)³.
- (e) The evidence of:
 - (i) Dean Whaanga, regarding cultural values, dated 11 July 2025;
 - (ii) Sean James Jacques, regarding avifauna, dated 11 July 2025;
 - (iii) Mary Dorrington de Winton, regarding submerged vegetation, dated 11 July 2025;
 - (iv) Ashley David Rabel, regarding water quality, dated 11 July 2025;
 - (v) Dr Marc Schallenberg, regarding coastal lake functioning and ecological processes, dated 11 July 2025;
 - (vi) Richard John Measures, regarding hydrology, dated 11 July 2025;
 - (vii) Dr Robin James Patrick Holmes, regarding indigenous fish, dated 11 July 2025;
 - (viii) Dr Hugh Roberson, regarding ecological values, dated 11 July 2025; and
 - (ix) James Jonathan Airey, regarding recreation values, dated 10 July 2025.

16. I have visited the Waituna Lagoon site a number of times since 2022. Most recently this was in April 2025 where I visited The Fence, Hansens Bay, and the Waghorn Road bridge, the lagoon view shelter, Moffat Road and Marshall Road.

Planner Expert Conferencing

17. Minute 1 from the Hearing Panel directed expert conferencing prior to the preparation of reports/evidence (including conditions of consent), and through to the commencement of the hearing. An agreed summary of the outcomes of planning expert conferencing to date is set out in Section 2.7 of the s42A Report.
18. In summary the planning experts (Ms Petricevich and I) agree on:
- (a) the rules and planning framework that consent is required under,

³ Being all statutory documents assessed in Section 10 of the Application.

- (b) the receiving/existing environment,
 - (c) the key themes raised in submissions,
 - (d) the effects of the application,
 - (e) the relevant provisions under Section 104(1)(b),
 - (f) that the application passes both limbs for the s104D gateway test, and
 - (g) that the resource consent can be granted for a 20 year duration, subject to appropriate conditions of consent.
19. Most of the conditions appended to the s42A Report are agreed, except where otherwise set out in my evidence and attached at **Appendix 1A and 1B**.
20. At this point in time, I am not aware of any other expert planning witnesses for conferencing purposes.

Application Description

21. A history of land use change, lagoon openings for land drainage, and nutrient and sediment inputs have adversely affected the ecological and cultural values of the lagoon. The application is for an opening regime to maintain and restore the ecological health and cultural values of the lagoon ecosystem, by transitioning to a more ecologically optimal opening regime over a term of 20-years.
22. A description of the application is set out in full in Section 3 of the Application⁴. In summary, the application seeks to:
- a. manage poor water quality and other risks to the lagoon that result from the cumulative adverse effects of contaminant discharges and land use activities within the catchment; and
 - b. reduce the frequency of openings to protect the lagoon ecosystem by opening at higher threshold levels than consented previously, to protect and restore its biodiversity, and when necessary to provide for fish passage.

⁴ Noting that the conditions of consent have been iteratively amended by updates on 14 May 23 June 2025, and now as attached to my evidence.

23. The application utilises a combination of water level, biosecurity, ecological, water quality, and fish passage triggers and thresholds to enable lagoon openings.
24. The levels sought in the later years of the application are 300-500mm higher (depending on the time of year) than the levels that the community was accustomed to under the previous expired resource consent⁵. Whilst the purpose of the application is to maintain and restore ecological and cultural health, the applicants propose to transition to a state of hauora over time. The purpose of this is to recognise that landowners in the catchment need time to adapt, and to provide certainty to landowners, over the long term, as to when these changes will take place.
25. The application proposes:
 - a. For years 1-5, summer openings (1 September to 30 April) may occur if water levels are at or above 2.4mASL for 24 hours; and winter openings (1 May to 30 August) may occur if water levels are at or above 2.3mASL for seven consecutive days;
 - b. For years 6-10, openings may occur if water levels are at or above 2.4mASL for three consecutive days;
 - c. For years 11-15, openings may occur if water levels are at or above 2.5mASL for three consecutive days; and
 - d. For years 16-20, openings may occur if water levels are at or above 2.5mASL for seven consecutive days.
26. The application is supported by a number of technical reports, with the key reports being the Science Advisory Report, the Cultural Values Report, and the further information and assessments provided on 26 November 2024, and on 14 May and 23 June 2025. These provide the evidential basis for the proposed opening regime and conditions of consent.

Activities Requiring Resource Consent

27. A description of the rules that the application requires resource consent under is provided in full in Section 3 of the Application. Resource consents are required under s14 of the RMA,

⁵ Permit AUTH-20146407, granted to Chairman Ewen Pirie on behalf of the Lake Waituna Control Association, provided at Appendix L to the Application. A full outline of the consenting history in relation to the Lagoon is provided in Section 7 of the application.

the National Environmental Standards for Freshwater (NESFW), the Southland Water and Land Plan (SWLP), and the Regional Coastal Plan (RCP).

28. The rules are summarised in Section 2.5 of the s42A Report. The s42A Report notes at paragraph 2.5.4 that resource consent for disturbance of the Coastal Marine Area (CMA) is required under Rule 10.1.6 of the RCP. This was discussed during expert planning caucusing, and it is agreed that resource consent is required under this rule.

The Environment Upon Which Adverse Effects are Assessed

29. A detailed description of the site and surrounding environment is provided in Section 5 of the Application. This has been reviewed, adopted, and summarised in Section 2.3 of the s42A Report, and is not repeated here.
30. A description of the receiving/existing environment (herein referred to as the 'existing environment') for the purpose of assessing actual and potential adverse effects is provided in Section 9.1.2 of the Application. This has been reviewed, adopted, and summarised in Section 2.4 of the s42A Report.
31. There is currently no resource consent in place for an opening regime for the lagoon, and lagoon opening is not a permitted activity. This means the environment as modified by the previous consented opening regime, does not form the existing environment. Therefore, the adverse effects of opening the lagoon must be assessed against a 'do nothing' approach, as opposed to an assessment of the effects of not opening the lagoon.

The Actual and Potential Effects on the Environment

32. The actual and potential adverse effects on the environment are assessed in Section 9 of the Application, and within the further information and assessments provided on 26 November 2024 and 23 June 2025. As outlined in paragraph 2.8.12.1 of the s42A Report, Ms Petricevich agrees on the overall conclusions as to the adverse effects being no more than minor, and confirms the effects are a consequence of providing a regime which will ultimately result in net positive effects on the environment.
33. The concerns raised in submissions regarding adverse effects are considered below.

Application Rigour and Evidence Base

34. A number of the submissions question the rigour of the application and the evidence base for the proposed opening regime. The evidence of Dr Roberson details the cross-discipline and multi-values approach that was applied to the proposed opening regime for the lagoon, setting out how different hydrological scenarios were used, and evaluating the positive and adverse effects on key attributes and values of the lagoon. I agree with Dr Robertson's opinion that the application conditions are appropriate to support the restoration of the ecological and cultural values of Waituna Lagoon, given the evidence based and multi-values approach outlined in his evidence.
35. I also agree with Dr Robertson's opinion that reverting to lower trigger levels will increase the likelihood of opening events and risk ecosystem decline, and that adverse effects are predicted to occur from leaving the system unmanaged⁶. The multi-values assessment approach, modelling of hydrological scenarios, and Science Advisory Group approach outlined in his evidence provides an evidential basis which was reviewed by experts, and which has been largely accepted by the S42A author and peer reviews.
36. Further, the evidence of Mr Measures outlines the inundation mapping and water balance modelling undertaken and the validation of this against aerial imagery. His opinion is that the modelling is fit for purpose for application⁷. I accept his conclusions given the validation⁸ that was undertaken to 'ground-truth' the model against recent aerial imagery.

Water Quantity and Inundation

37. Most submissions in opposition seek lower lagoon opening levels than those proposed in the application, with the majority of submitters seeking levels between 2.2 and 2.3mASL.
38. Although the concerns raised in these submissions relate to the existing environment and not effects of the application, the applicants engaged with those in the catchment to reduce these concerns. This consultation with catchment representatives regarding the application, particularly regarding the opening levels, has been ongoing since 2022⁹. More recently, concerns were discussed in the pre-hearing meeting¹⁰ in March 2025.

⁶ Evidence of Dr Hugh Allister Robertson dated: 11 July 2025, paragraph 85.

⁷ Evidence of Evidence of Richard John Measures, 11 July 2025, paragraphs 72-76.

⁸ Additional application information provided on 26 November 2024.

⁹ A summary of consultation with the catchment community is set out in Sections 7.3 and 8 of the Application.

¹⁰ Paragraphs 26 to 39 of the Pre-Hearing Meeting Report dated 31 March 2025 summarises submitter concerns regarding levels.

39. A further evaluation of the transitional levels was undertaken, to narrow the issues in contention regarding levels, following the pre-hearing meeting. This evaluation was summarised by Dr Roberston and provided to the Science Advisory Group for their advice regarding the associated adverse effects¹¹. The amended levels now proposed seek to respond to these concerns, and will have minor effects in the short term, transitioning to positive effects over the medium-longer term of the consent. The applicants considered these acceptable and the proposed conditions of consent were then updated in May 2025 to reflect these changes.
40. These changes go some way, but do not fully address submitters concerns. However, in my view, having considered the various ecological and cultural values, technical information, assessments and evidence underpinning the application, levels any lower than this will likely have more than minor adverse effects on the ecological and cultural values of the lagoon and would unreasonably delay restoring the lagoon to a state of hauora. For these reasons, while I support the applicant's amendments, I do not support any further lowering of lagoon levels below those in the updated conditions.

Water Quality and Erosion

41. Submissions regarding water quality raise concerns around increased erosion and sedimentation, particularly in relation to higher water levels, and the need for the lagoon to be opened more frequently to flush out poor water quality. These issues relate to nutrient and sediment inflows as part of the existing environment as outlined by Mr Rabel¹² and erosion and sediment are further considered in the evidence of Mr Measures¹³. Ms Petricevich and I are in agreement that these matters are not relevant considerations for the assessment of effects, nor are the concerns of high-water levels within the lagoon as assessed in paragraphs 36-39 above¹⁴.
42. In terms of water quality effects on the lagoon from opening events, the proposed regime will have positive effects on water quality when the lagoon is opened to the sea for water quality reasons. Mr Rabel's evidence confirms that overall, the consent conditions are likely to result in net positive effects on lagoon water quality and are more likely to protect lagoon

¹¹ Section 2.7 and Appendix F of the Further Information Response provided on 23 June 2025.

¹² Section 2.1 of the Further Information Response provided on 23 June 2025, and Evidence of Ashley David Rabel, dated: 11 July 2025.

¹³ Evidence of Richard John Measures, dated 11 July 2025, paragraphs 66-71.

¹⁴ Paragraph 2.8.4.6 of the s42A Report.

health¹⁵. His previous assessment of effects on the coastal environment confirms that coastal water quality effects are appropriately addressed¹⁶.

43. The s42A report recommends an addition to risk assessment Condition 26, for opening at alternative locations or if openings at Walkers Bay have not occurred in the previous 5 years. The addition includes an assessment of impacts on water quality from bed disturbance, erosion and sedimentation, as well as measures to mitigate this risk. I agree this is an appropriate condition to manage these effects and note Mr Rabel has reached a similar view.

Ecological Values

44. Submitter concerns regarding ecological values relate to potential adverse effects on avifauna (particularly the Nationally Critical Australasian bittern), fringing wetlands (particularly regarding manuka dieback), macrophytes (particularly rupia species), and monitoring. Adverse effects on ecological values are assessed in Section 9.5 of the Application, in the information response provided in June, and are further addressed in the evidence of the ecological experts:
- a. In terms of **lagoon functioning and ecological processes**, the evidence of Dr Schallenberg outlines the physical attributes of Waituna Lagoon, the response of these system types during open and closed phases, the importance of the lagoon and its natural condition, and its vulnerabilities and threats. He sets out that the lagoon is rare because it retains many of its natural values compared to similar coastal lagoon/lake ecosystems, but that it is at risk of high nutrient loads and an opening regime that doesn't properly account for its diverse ecological values. He confirms the proposed opening regime is a useful tool for flexible, adaptive management towards a more desirable ecological outcome¹⁷.
 - b. In terms of effects on **submerged vegetation**, the evidence of Ms de Winton confirms the application and conditions will progress the lagoon towards a more natural state, with a sustained presence of submerged vegetation (including addressing submitter concerns on the effects on *Ruppia* spp.), that are typical of healthy coastal lagoons in New Zealand¹⁸;

¹⁵ Evidence of Ashley David Rabel, dated: 11 July 2025, paragraphs 38-42.

¹⁶ Section 2.2 of the Further Information Response provided on 23 June 2025.

¹⁷ Evidence of Marc Schallenberg, dated: 11 July 2025, paragraph 41.

¹⁸ Evidence of Mary Dorrington de Winton, dated: 11 July 2025, paragraphs 81-83.

- c. In terms of effects on **fish**, the evidence of Dr Holmes sets out that from a whole-of-ecosystem perspective, the potential positive effects will compensate for reduced recruitment of migratory fish populations during some years. His evidence concludes that the fish passage and effectiveness review conditions enable ocean migratory native fish community values to be appropriately balanced against other management objectives, such as *Ruppia* spp. and other native macrophytes. This will establish a more natural hydrological regime and increase the resilience of one of the most significant national populations of the 'at risk' giant kokopu¹⁹.
- d. In terms of effects on **avifauna**, the evidence of Mr Jacques considers the regime will provide for open and closed lagoon phases that will offer a range of foraging and breeding opportunities for a diverse range of species, providing a net benefit in terms of effects. He does however indicate that the timing for openings could interfere with bittern nesting, and he recommends additions to Conditions 5 and 6 to *"include a requirement for the Science Advisory Group to consider the timing of breeding of 'At-risk' and 'Threatened' species when evaluating whether to open the lagoon or not"*²⁰. I agree with Mr Jacques that at-risk and threatened breeding birds should be a consideration for lagoon openings, and I recommend changes to these conditions, as outlined in **Appendix 1**. Mr Jacques also comments briefly on submissions that raise issues regarding waterfowl on private land, noting that waterfowl foraging is a function of opportunistic feeding on nutritious short pasture grass when this is available²¹.
- e. In terms of the concerns regarding adverse effects raised by submitters on **fringing wetlands**, these are addressed in the evidence of Dr Robertson and the information response provided in June. These outline the fringing plant communities and their response to different water levels. They also assess that reversion and associated dieback of some terrestrial plant communities (such as Manuka) to wetland communities over time *"can be viewed as part of the ecological restoration of the natural hydrological and ecological function of the lagoon ecosystem"* and *"The proposed transitional regime is supported to allow the native wetland vegetation to transition gradually overtime"*. In my view although there are minor effects on

¹⁹ Evidence of Dr Robin James Patrick Holmes, dated: 11 July 2025, paragraphs 56-58.

²⁰ Evidence of Sean Jacques, dated: 10 July 2025, paragraphs 59-63.

²¹ Evidence of Sean Jacques, dated: 10 July 2025, paragraph 22.

terrestrial plant communities, this will result in positive effects on the fringing wetlands.

45. I have relied on the above technical and evaluative evidence in confirming my view that:
- a. the proposed opening regime appropriately balances a range of ecological values for the overall health of the lagoon;
 - b. adverse ecological effects associated with lagoon opening events are no more than minor, temporary, and appropriately managed by the recommended conditions of consent; and
 - c. overall, the application will have positive effects on ecological values.

Cultural Values

46. Submissions were received from Te Runanga o Hokonui, Te Runanga o Oraka Aparima and Te Runanga o Waihopai, Te Waipārera Trust and Te Runanga o Ngai Tahu in support of the resource consent application. A summary of the cultural significance of the lagoon and wider area is provided in Section 6 of the application and in the Cultural Values Report. An assessment of adverse effects was provided in section 9.6 of the application which is agreed and further commented on in the s42A report. The evidence of Mr Whaanga provides further context as to the deep cultural, spiritual, and ecological significance of Waituna Lagoon to mana whenua and highlights the mātauranga that underpins the relationship of mana whenua with the lagoon. Mr Whaanga considers the proposed regime will have a positive effect on cultural values and on the health of the lagoon as a living system, and that anything less will impact those values²².

Historical Heritage, and Natural Character, Natural Features and Landscapes

47. No submissions have been received regarding adverse effects on historic heritage (including archaeology) or natural character, natural features, and landscapes. An assessment of adverse effects was provided in sections 9.7 and 9.8 of the application, this is adopted by the s42A author, and in my view the conditions appropriately manage adverse effects on these values.

²² Evidence of Dean Whaanga, dated 11 July 2025, paragraphs 94-99.

Public Access along the coast, Recreational Values and Amenity, Coastal Environment

48. Submitter concerns regarding these matters primarily relate to access during times when water levels are higher, and impacts on fishing and the Waituna Loop Track. I note these relate to the existing environment and are not relevant considerations for the purpose of considering adverse effects of lagoon openings on the environment. The evidence of Mr Airey also confirms that the usage of the Waituna Loop Track by the public is low²³. An assessment of effects was provided in Sections 9.7 – 9.11 of the Application, this was agreed by the s42A author, and in my view effects on public access, recreation and amenity are minor and temporary.

Positive Effects

49. The purpose of the opening regime is to maintain and restore the ecological health and cultural values of the lagoon. Several submitters acknowledge the positive effects on the environment. The positive effects are assessed in detail at Section 9.3 of the application. They are agreed by the s42A author, and are further detailed in the evidence of Mr Whaanga, Mr Jacques, Ms de Winton, Mr Rabel, Dr Schallenberg, Mr Measures, Dr Holmes, and Dr Roberson. In my view the application contributes to the restoration of te hauora o te taiao, te hauora o te wai, and te hauora o te tangata²⁴ to achieve a more ecologically optimal opening regime over a 20-year term.

Effects Conclusion

50. Overall, my view is that the proposed consent will have positive effects on the environment. Actual and potential adverse effects are temporary, no more than minor, and can be appropriately managed by conditions. This is agreed by the s42A author Ms Petricevich, who recommends a revised set of conditions. I accept most of the changes to conditions, except where I have recommended further amendments to them, as detailed in this evidence.

Relevant Provisions under Section 104(1)(b) of the RMA

51. An evaluation of the application in accordance with the relevant provisions of the statutory documents under s104(1)(b) and (c) is provided in full in Section 10 of the Application, and in the further information provided on 23 June 2025. The s42A report draws similar

²³ Evidence of Johnathan Airey, dated 10 July 2025, paragraphs 19-26.

²⁴ Consistent with the fundamental objectives of the PLWP, being Objectives 1 and 2.

conclusions, so rather than repeat my existing evaluation, I have commented only on those areas where I make changes:

- a. Objective 1 of the National Policy Statement for Freshwater Management (NPSFM) can no longer be considered when making a decision on a resource consent application. As such, I no longer consider this clause in providing my views on the application.
 - b. The s42A author correctly identifies in paragraph 32.5.3 that I have omitted to directly assess Objective 4 of the New Zealand Coastal Policy Statement (NZCPS) in the Application, noting the relevant effects that relate to this objective have been considered in Sections 9.10 and 9.11 of the Application. Objective 4 relates to the maintenance and enhancement of public open space qualities and recreation opportunities. In my view, the application is not contrary to this objective, public open space and recreation opportunities will be affected for a short time when a lagoon opening restricts access across that particular area of the Waituna Bar and lowers the water levels for recreational users of the lagoon. These effects are minor and temporary, and fully remedied when the lagoon closes.
52. Overall, subject to Part 2 and in accordance with s104(1)(b), I remain of the view that the application is not contrary to the objective and policies of the relevant documents. This is agreed by the s42A author.
 53. The s42A author notes in paragraph 3.9.1 that *“the applicable planning provisions have been prepared having regard to Part 2, and there is a coherent set of policies designed to achieve clear environmental outcomes, referring to Part 2 of the RMA for an overall judgement is not necessary”*. I agree with this view²⁵, noting that for completeness I have still provided a full evaluation of Part 2 matters in the application, and my assessment in that regard is unchanged.
 54. I consider the application is consistent with the sustainable management purpose and principles of the RMA as it seeks to protect natural character and landscapes, significant indigenous biodiversity, and the relationship of Māori and their culture and traditions with their ancestral lands, water and taonga. The proposal is in accordance with the ethic of kaitiakitanga, recognises and provides for the intrinsic values of the lagoon, has regard to

²⁵ as set out in Section 13 of the Application.

environmental quality and takes into account the partnership, protection and participation principles of Te Tiriti.

The Section 104(1)(b) 'Gateway Test'

55. I remain of the view, which is agreed by the s42A author, that both limbs of the RMA s104D gateway tests are passed:
- a. the effects of the opening regime are largely positive, with adverse effects being minor and temporary in duration; and
 - b. the proposal is not contrary to the relevant objectives and policies of the statutory documents.
56. The consent is therefore able to be granted, subject to appropriate conditions in accordance with s108 of the RMA.

Consent Term and Conditions

57. I remain of the view that a 20-year term is appropriate and note this is agreed by the s42A author.
58. I confirm, as set out in paragraph 2.7.5 of the s42A report, that for the most part the recommended conditions of consent provided at Appendix I of the s42A Report are appropriate to manage, monitor and mitigate adverse effects. Given the small window of time available to conference prior to the finalisation of the s42A Report, I was not able to review all last minute changes recommended by the s42A Author.
59. I have now reviewed these changes and confirm that I agree with the majority of them, other than as detailed below, and attached as **Appendix 1** to my evidence:
- a. Minor amendments to correct errors and make improvements to Conditions 5(b), 19, 20(a) and (d), 22, 26(e);
 - b. Additions to Conditions 5 and 6 to include the consideration of at-risk and threatened breeding birds as recommended in the evidence of Mr Jacques;
 - c. Deletion of most of monitoring Condition 21 as this duplicates most of the information required in Condition 20;

- d. Deletion of review Condition 23(b) as this duplicates much of Condition 23(c), and a minor addition to Condition 23(c) to include those additional matters not duplicated;
- e. The evidence of Dr Robertson has considered the recommended additions to Condition 20 in the s42A report for fringing wetland monitoring at the commencement of the consent, at year 2, and at 5 yearly intervals. He accepts most of the additions, but in regards to the 2 year requirement, he advises that *“The effect of water level variation on the growth and recruitment of plant communities will only be reliably detected after several seasons, and the monitoring undertaken at year 5 will provide a better reflection of the overall response of fringing wetland vegetation to the transitional water regime”*²⁶;
- f. The evidence of Dr Holmes has considered the fish stranding additions to the conditions of consent appended to the s42A Report, noting that some degree of fish stranding likely occurs during each opening, and has likely occurred for decades when openings were more frequent. He considers fish stranding monitoring to be impractical due to the lagoon’s remoteness and large size; and given the rapid dewatering that will occur during each opening event, effective mitigation would be limited. He considers a consenting regime that reduce opening frequencies is the most effective mitigation²⁷. I agree with this analysis and as these additions would not be effective in providing any further mitigation, I recommend they are deleted;
- g. Deletion of the requirement in Condition 23 to undertake a full effectiveness review of the consent within six months of every opening. I consider that undertaking a full review this frequently is not necessary. However, I do agree that the consent holders are required to reflect on whether the opening location and methodology were effective and whether any changes to the opening location and methodology are necessary for future openings to better protect lagoon and ecosystem health and cultural values after each opening event. I therefore recommend an alternative approach where these considerations are reported on annually as part of the Monitoring Plan required by Condition 21 and have proposed additions to that condition;
- h. Other minor changes are recommended to Condition 23 to remove duplication;

²⁶ Evidence of Dr Robin James Patrick Holmes, dated: 11 July 2025, paragraphs 70-71.

²⁷ Evidence of Dr Robin James Patrick Holmes, dated 11 July 2025, paragraphs 49-52.

- i. Deletion of 'no less than 24 hours prior to opening' from Condition 26, as it will be impractical for the Consent Authority to certify the risk assessment if they only have 24 hours' notice.

Conclusion

60. Overall, it is my view that:

- a. there will be positive effects on the environment, and actual and potential adverse effects are temporary, no more than minor, and can be appropriately managed by conditions of consent. The application contributes to the restoration of te hauora o te taiao, te hauora o te wai, and te hauora o te tangata, to achieve a more ecologically optimal opening regime over a 20-year term, consistent with the objectives of the PWLP and having appropriately considered and responded to the matters raised in submissions.
- b. The application is not contrary to the objective and policies of the relevant documents, and in particular, is consistent with the objectives of the PLWP.
- c. The application passes both limbs of the s104D gateway test and is therefore able to be granted with appropriate conditions of consent.
- d. The updated recommended conditions provided at **Appendix 1** will ensure that adverse effects are appropriately managed, and are adaptive to respond to future change and the dynamic natural of the environment over the 20 year term of the consent.



Lisa Thorne

Dated 11 July 2025

Appendix 1

Recommended conditions of consent:

A: Tracked Version

B: Clean Copy Version