

# **Proposed Marlborough Environment Plan**

**Section 42A Hearings Report for Hearing Commencing  
February 2019**

**18 January 2019**

**Report on submissions and further submissions  
topic: Water Allocation and Use**

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# Contents

|  |     |
|--|-----|
| List of Abbreviations .....  | ii  |
| Introduction.....  | 1   |
| Code of Conduct .....  | 2   |
| Scope of Hearings Report .....   | 2   |
| Further Submissions .....  | 4   |
| Overview of Provisions Development .....   | 4   |
| Statutory Documents.....   | 9   |
| Analysis of submissions .....  | 10  |
| Key Matters.....   | 10  |
| Pre-hearing meetings .....   | 10  |
| Matter 1: The diversity of water resources makes it difficult to achieve uniformity in water allocation and water use management regimes across the District. ....   | 11  |
| Matter 2: The taking, damming or diversion of water can compromise the life-supporting capacity of rivers, lakes, aquifers and wetlands. ....  | 16  |
| Natural and Human Use Values .....   | 24  |
| Setting of Environmental Limits.....   | 36  |
| Allocation of Water .....  | 83  |
| Diversion of Water .....   | 91  |
| Damming of Water .....   | 101 |
| Water Short Direction .....  | 109 |
| Other.....   | 110 |
| Matter 3: Marlborough’s social and economic wellbeing relies on an adequate supply of freshwater. ....   | 113 |
| Matter 4: Many water resources are fully allocated or are approaching full allocation, inhibiting the opportunity to provide for further demand for water resources.....   | 203 |
| Matter 5: The over-allocation of water resources creates a risk that the cumulative abstraction of water from the resource will exceed the safe yield, creating significant adverse effects on natural and human use values and threatening the reliability of existing water uses. .... | 214 |
| Matter 6: The taking of groundwater in proximity to rivers can individually or collectively reduce flows in the rivers.....  | 227 |
| Matter 7: Allocating more water than is actually required for any use creates the potential for inefficient use of water. This can compromise the sustainability of the resource and prevent other users accessing water.....  | 237 |
| Matter 8: Demand for water typically peaks when river flows and aquifer levels are at their lowest, which can cause short-term water availability issues. ....   | 265 |
| Matter 9: There is the potential for a new water user to get access to water on a more reliable basis than allocations already made, resulting in inequitable outcomes. ....   | 276 |
| Matter 10: Definitions.....  | 283 |
| Matter 11: Submissions not covered elsewhere.....  | 290 |
| Appendix 1: Recommended decisions on decisions requested .....   | 300 |

# List of Abbreviations

|                    |  |
|--------------------|--|
| Accolade           | Accolade Wines New Zealand Limited   |
| AER                | Anticipated environmental result   |
| AWUG               | Awatere Water Users Group  |
| BRIL               | Blind River Irrigation Limited   |
| Chamber            | Marlborough Chamber of Commerce  |
| Clintondale        | Clintondale Trust, Whyte Trustee Company Limited                                     |
| Constellation      | Constellation Brands New Zealand Limited   |
| DOC                | Department of Conservation   |
| EDS                | Environmental Defence Society Incorporated   |
| Environment Centre | The Marlborough Environment Centre Incorporated                                      |
| Federated Farmers  | Federated Farmers of NZ  |
| FENZ               | Fire and Emergency New Zealand   |
| Fish and Game      | Nelson Marlborough Fish and Game   |
| FMU                | Freshwater Management Unit   |
| Fonterra           | Fonterra Co-operative Group Limited  |
| Forest and Bird    | Royal Forest and Bird Protection Society of NZ Incorporated                          |
| Friends            | Friends of Nelson Haven and Tasman Bay Incorporated                                  |
| GPA                | Groundwater Protection Area  |
| HEPS               | Hydro-electric Power Scheme HEPS   |
| IMP                | Iwi Management Plan  |
| Irrigation NZ      | Irrigation New Zealand Incorporated  |
| KiwiRail           | KiwiRail Holdings Limited  |
| Lion               | Lion - Beer, Spirits & Wine (NZ) Limited   |
| LW Irrigation      | Lower Waihopai Irrigation Company  |
| MALF               | Mean annual low flow   |
| MALF7              | 7 day mean annual low flow   |
| MDC                | Marlborough District Council   |
| MEP                | Proposed Marlborough Environment Plan  |
| MEPB               | Marlborough Electric Power Board   |
| MPI                | Ministry for Primary Industries  |
| NMDHB              | Nelson Marlborough District Health Board   |
| NPSET              | National Policy Statement on Electricity Transmission                                |
| NPSFM              | National Policy Statement for Freshwater Management (2011 & 2014)                    |
| PFR                | Plant and Food Research Limited  |
| PNESEF             | Proposed National Environmental Standard on Ecological Flows and Water Levels (2008) |

|                            |   |
|----------------------------|---|
| MFIA                       | Marlborough Forest Industry Association   |
| MSRMP                      | Marlborough Sounds Resource Management Plan                                     |
| NESPF                      | National Environmental Standards for Plantation Forestry 2017                   |
| Ngāi Tahu                  | Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu                                |
| Ngāti Kuia                 | Te Rūnanga o Ngāti Kuia   |
| Ngāti Toa                  | Te Rūnanga Toa Rangatira  |
| NMDHB                      | Nelson Marlborough District Health Board  |
| North Rarangi WS           | North Rarangi Water Supply Incorporated   |
| NPSFM                      | National Policy Statement on Freshwater Management 2014                         |
| NPSET                      | National Policy Statement on Electricity Transmission 2008                      |
| NZ                         | New Zealand   |
| NZDF                       | NZ Defence Force  |
| NZTA                       | NZ Transport Agency   |
| NZ Forest Products         | NZ Forest Products Holdings Limited   |
| NZ Pork                    | NZ Pork Industry Board  |
| Oil Companies              | Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited              |
| Panel                      | MEP Hearings Panel  |
| Pernod Ricard              | Pernod Ricard Winemakers NZ Limited   |
| PIP                        | Progressive Implementation Programme ( <i>under the NPSFM</i> )                 |
| QCS Residents              | Queen Charlotte Sound Residents Association                                     |
| Rarangi Residents          | Rarangi District Residents Association  |
| Rarangi North WS           | North Rarangi Water Supply Incorporated   |
| RMA                        | Resource Management Act 1991  |
| RSA                        | Rarangi Shallow Aquifer   |
| Save the Wairau            | Save the Wairau River Incorporated  |
| SFR                        | Sustainable Flow Regime   |
| Surveyors                  | New Zealand Institute of Surveyors  |
| Transpower                 | Transpower New Zealand Limited  |
| Te Ātiawa                  | Te Ātiawa o Te Waka-a-Māui  |
| Wairau Valley Residents    | Wairau Valley Ratepayers and Residents' Association                             |
| WARMP                      | Wairau/Awatere Resource Management Plan   |
| WAWG                       | Water Allocation Working Group  |
| Water Metering Regulations | Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 |
| WRU                        | Water Resource Unit   |

# Introduction

1. My name is Rachel Anderson.
2. I am a Policy Portfolio Manager in the Environmental Policy Group at the Marlborough District Council. My qualifications and experience are as follows:
  - Bachelor of Science in Geology and Geography (University of Canterbury, 2004);
  - 14 years experience in resource management, particularly focused on freshwater both in planning and policy.
3. I was involved in the preparation of the Proposed Marlborough Environment Plan (MEP) in my role as Policy Portfolio Manager. Of particular relevance to this hearing topic, I was involved in development of all the provisions on water allocation and use.
4. I have read Council's Section 32 report titled "*Chapter 5 - Allocation of Freshwater Resources*".
5. I am the primary author of this report. However, the experts below have contributed to this report, in essence as co-authors, at the relevant junctures depending on their area of expertise. Where their advice is being presented within this report, that is clearly articulated.
6. All of the experts who have contributed to this report will be available to assist the Panel at the hearing.

## Contributors to this report

7. **Peter Davidson** is currently employed by the Marlborough District Council as a groundwater scientist. Peter's qualifications and experience are as follows:
  - Bachelor of Science in Geology (University of Otago, 1985);
  - Master's Degree in Earth Sciences (Victoria University of Wellington, 1998);
  - Attended Post Graduate Course in Groundwater Hydrology (University of New South Wales, 1987).
8. Peter was involved in the preparation of the MEP by providing information and specialist advice to the Environmental Policy Group on areas where he has expertise, mainly in relation groundwater.
9. **Val Wadsworth** is currently employed by the Marlborough District Council as an environmental scientist in hydrology. Val's qualifications and experience are as follows:
  - NZCE (Civil).
  - Worked for MDC and its predecessor authorities the Nelson Marlborough Regional Council and the Marlborough Catchment Board in various roles since 1974.
10. Val was involved in the preparation of the MEP by providing information and specialist advice to the Environmental Policy Group on areas where he has expertise, primarily in the fields of Civil Engineering and hydrology but Val has a broad knowledge of the surface water, and groundwater resources of the Marlborough District.

11. **Peter Hamill** has been employed by Marlborough District Council as the Team Leader - Land and Water in Council's Environmental Science and Monitoring Group since June 2017. Previous to this position Peter has held the following positions since his employment at the Marlborough District Council began in 1994 –Senior Environmental Scientist, Environmental Scientist - Aquatic Biota, Policy Analyst - Information Management, Resource Information Officer and Consents Officer. Peter's qualifications and experience are as follows:
  - Bachelor of Science and Post-Graduate Diploma in Science (University of Otago, 1989)
12. Peter was involved in the preparation of the MEP by providing information and specialist advice to the Environmental Policy Group on areas where he has expertise, mainly in relation freshwater ecology.
13. **John Bright** has been contracted by Marlborough District Council to assist with the review of the water management regime for Marlborough's freshwater resources. John is currently employed as Director: Research & Development, Aqualinc Research Limited. John's qualifications and experience are as follows:
  - B.Sc. (Physics, 1975), B.E. (Hons) (Agricultural, 1978), and Ph.D. (Agricultural Engineering, 1986), conferred by the University of Canterbury.
  - Member of the American Society of Civil Engineers and of the New Zealand Hydrological Society.
14. John was involved in the preparation of the MEP by providing information and specialist advice to the Water Allocation Working Group, and directly to Council staff. John expertise in this role was particularly around reasonable water use.

## Code of Conduct

15. Rachel Anderson, Peter Davidson, Val Wadsworth, Peter Hamill and John Bright confirm that they have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and agree to comply with it.
16. Rachel Anderson, Peter Davidson, Val Wadsworth, Peter Hamill and John Bright confirm that they have considered all the material facts that they are aware of that might alter or detract from the opinions that they express, and that this evidence is within their areas of expertise, except where they state that they are relying on the evidence of another person.
17. Rachel Anderson, Peter Davidson, Val Wadsworth, Peter Hamill and John Bright are authorised to give this evidence on the Council's behalf.

## Scope of Hearings Report

18. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA).
19. In this report we assess and provide **Recommendations** to the Hearing Panel on submissions made on the following –
  - provisions in Chapter 5 (Allocation of Public Resources) of Volume 1 of the MEP;
  - the rules in Volume 2 relating to Section 14 of the RMA;
  - other rules with an association to this topic;

- definitions associated with this topic;
  - Appendix 6 (Environmental Flows and Levels);
  - Overlay Maps 1-4 (Freshwater Management Units);
20. Provisions covered in this hearing topic that either received no submissions, or only submissions in support (with no relevant opposing further submissions) are not assessed in this report. However, submission points in support of provisions without any relevant opposition or amendment sought are recommended for acceptance in the “*Recommended decisions or decisions requested*” table in Appendix 1. For clarity, submissions on the following provisions fall into these categories –

Provisions with no submissions

- Rule 2.2.23, 2.2.13
- Headings 2.3.22, 2.3.12
- Standards 2.1.1.1, 2.3.1.4, 2.3.1.5, 2.3.2.3, 2.3.2.4, 2.3.2.5, 2.3.3.1, 2.3.3.2, 2.3.3.3, 2.3.3.4, 2.3.3.5, 2.3.4.2, 2.3.4.3, 2.3.5.2, 2.3.5.3, 2.3.6.2, 2.3.6.3, 2.3.7.1, 2.3.8.1, 2.3.8.2, 2.3.8.3, 2.3.8.4, 2.3.8.5, 2.3.9.1, 2.3.9.3, 2.3.10.1, 2.3.10.2, 2.3.10.3, 2.3.12.2, 2.3.12.4, 2.3.13.1, 2.3.13.4, 2.3.15.1, 2.3.16.2, 2.3.18.2, 2.3.19.1, 2.3.20.1, 2.3.21.1, 2.3.22.2, 2.3.22.4, 2.3.23.1, 2.3.23.2, 2.3.23.3, 2.3.23.4, 2.3.23.5, 2.3.23.6, 2.3.23.7,
- Controlled Activity matters controlled 2.4.1.2, 2.4.1.3, 2.4.1.4, 2.4.1.5, 2.4.1.6
- Freshwater Management Unit Overlay Map 4
- Afforestation Flow Sensitive Sites Overlay

Provisions with supporting submissions only\*

- Issue 5A, 5E, 5F, 5G
- Policy 5.3.2
- Methods 5.M.5, 5.M.6, 5.M.7, 5.M.8
- Anticipated Environmental Results 5.AER.2, 5.AER.4, 5.AER.5, 5.AER.6, 5.AER.7, 5.AER.8, 5.AER.9
- Rule 2.2.3, 2.2.9, 2.2.14, 2.5.1, 2.5.2, 2.5.3, 2.5.4
- Headings 2.3, 2.3.3, 2.3.8, 2.3.13
- Controlled Activity Standards and Terms 2.4.1.1
- Schedule 2 of Appendix 6
- Definition – Diversion, Bore, Dam, Dewatering

\* The Fish and Game submissions on Rules 2.5.1 to 2.5.4 (inclusive) and Heading 2.3.8 have been considered elsewhere.



21. A number of the submissions received requested information, made statements or asked questions but did not seek any relief in their submission. Where it has been possible to infer what relief might be sought, the submissions have been included in the body of the report and assessed accordingly. However, for some submissions inference could not be made and therefore for those points, neither an assessment or a recommendation is possible. Submission points of this nature are in the table in Appendix 1 with the recommendation "*None – no specific relief sought*".
22. As submitters who indicate that they wish to be heard are entitled to speak to their submissions and present evidence at the hearing, the recommendations contained within this report are preliminary, relating only to the written submissions.
23. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions or decisions having considered all the evidence to be brought before them by the submitters.

## Further Submissions

24. Due to the volume of submissions to be considered for this hearing topic, further submissions are not discussed within the report unless they are particularly specific in responding to a submission point.
25. Many further submissions received are broadly made on all of the submissions of a particular entity and on a point-by-point basis are often not relevant or present conflicting positions.

## Overview of Provisions Development

### Early consultation

26. Early consultation in the review process began, by way of a flyer to all ratepayers, in 2006 with the first round of consultation initially undertaken solely for the review of the Regional Policy Statement. Responses were received from the community expressing views on the most important resource management issues that Marlborough would face over the next ten years, including water allocation and use.
27. Strong concern over the management of Marlborough's water resources was expressed, including a perceived unsustainable increase in new resources consents being granted to take water from aquifers and rivers for irrigation and frost protection. People expressed concern about further degradation of rivers and waterways and the impact this would have on the ecosystems and way of life that freshwater resources supports.
28. Many of the responses received identified the need for an allocation plan for freshwater resources to provide certainty to water users, and the responses also suggested ways to prioritise the allocation of water in the face of diminishing supplies.
29. Concern was expressed at the allocation of water to single entities to the exclusion of late comers, either uses or users, without any intention of review or reallocation on a shared basis. The need to have an equitable sharing of water when there are restrictions on availability was highlighted. Issues around the effective and efficient use of water both in the rural and urban environment were highlighted and respondents called for the Council to take a stronger stance to ensure this is achieved.
30. A number of the responses considered storage dams were necessary in areas where summer water resources are inadequate. Some thought that water schemes for irrigation

should not be built at ratepayers' expense. Others suggested landowners who had access to a water scheme should have their groundwater water rights revoked (except for where water was to be used for potable supplies.) This was perceived to ensure there was a better recovery of aquifers with dangerously low levels.

31. Following this initial consultation, a series of discussion papers were prepared by the Council and released for public feedback in late 2007. One discussion paper was on water allocation and use issues. This paper received responses from individuals, iwi, industry groups and environmental groups, and the comments raised issues related to the allocation of water in the face of uncertainty, competition for water, over allocation, links between surface and groundwater, water shortages, the effects of water use and sea water intrusion.
32. In the feedback on the allocation of water in the face of uncertainty respondents indicated that the unprecedented level of demand for water had created uncertainty amongst existing and new water users in terms of the reliability of supply. This uncertainty can influence decisions relating to investment and development. The high level of demand has also created concern amongst environmental groups about potential adverse effects on the environment.
33. Other feedback on this issue included –
  - the need to have a water allocation framework;
  - the ability to restrict water abstraction in order for the framework to be effective;
  - the recognition of specific human uses as significant resources;
  - that water supply to human uses resources not be compromised;
  - support for the identification of values supported by water bodies;
  - that there is ongoing monitoring to ensure instream values are protected;
  - appropriate terms for water permit (shorter and longer for different reasons).
34. There was general agreement that the increasing competition for water has led to conflict within the community. There was a level of support for an alternative to the “first-in first-served” method of water allocation; the support was particularly evident in responses from people in the Awatere and Flaxbourne catchments. However, some stated a preference for the status quo, i.e., the first-in first served allocation system.
35. Other comments made on there being increased competition for water included:
  - priority be given to different crops types;
  - not having a priority based system because it may conflict;
  - the use of best practice and efficient use methodologies;
  - issue being efficient water use;
  - more close monitoring of use to identify under-utilisation and enable reallocation;
  - some support for a charge or resource rental.
36. There was general agreement that over-allocation should be corrected but varying views on addressing the issue. Some felt the planning documents should clearly describe how the process of clawback would be implemented to provide certainty, however others were opposed to the “claw-back” of allocation. An alternative option was suggested, the promotion of the transferability of water permits, which was believed to ensure that the resource is applied to activities that most need water at any given time. Another suggested alternative was the development of community water supply schemes.

37. The issue of the relationship between surface water and ground water received the least feedback. The comments indicated acceptance of the importance of the link between surface water and groundwater but also illustrated the lack of knowledge about the nature of this relationship. For some, this meant that it was difficult to apply management options. Others expressed a desire for the management of water resources that are connected to be more transparent.
38. There was general agreement that water shortage is a significant issue for Marlborough and that the storage of water was seen as the solution. The views expressed about water rationing covered the following:
- intervention, in terms of reducing water takes should occur early if it is possible to forecast droughts;
  - water takes could be “rationed” as minimum flows are approached;
  - provide water users with greater control of rationing, although others felt this approach could not be relied upon or it would be impractical to implement;
  - rationing above minimum flows may adversely affect hydro-electric power generation infrastructure; and
  - community water supplies should be afforded priorities during times of drought stress.
39. There was a large level of support for the inclusion of an objective of efficient water use, accompanied by an explanation of what ‘efficiency’ means in this context. For most people, efficiency meant that water allocation should not exceed what is considered to be “reasonable” for the intended uses, and that wastage of water is avoided so that available water can be spread between as many users as possible. Several people sought the fair and equitable application of the principle of reasonable across all users, not just rural/irrigation users.
40. Other feedback on the effects of water use included the following:
- where the initial allocation exceeds actual crop requirements that excess water could be transferred to another user, i.e., “sold for profit”; effectively allowing people to queue jump;
  - acknowledgement that, even with a paper allocation reflecting a reasonable use requirement, the actual rate of use will be a proportion of the paper allocation. There was also support for moving to a seasonal method of allocation;
  - stronger incentives to encourage more efficient use of water;
  - discourage land uses that require large amounts of water, however other feedback stated that the Council should not be picking winners;
  - there are significant benefits in metering water takes, especially in terms of providing resource information to help with the management of the resource and to ensure compliance;
  - several users in the Flaxbourne area suggested that the Permitted Activity rules for stock and domestic use were excessive for water-short areas and requested that allocations be reduced. It was also suggested the cumulative effects of stock and domestic takes on small streams should be considered.
41. There was general agreement that community water supplies should be given special recognition due to the contribution they make to people’s wellbeing, including being excluded from any restrictions. However, this view was not shared by one environmental organisation concerned about protection for instream values.

42. Many people took the opportunity to provide anecdotal information on the state of water resources in Marlborough, with reduced river flows and falling aquifer levels a common theme. Those concerned about groundwater levels were commonly long-standing domestic users who had noticed dropping well levels, which was believed to be in response to increased irrigation abstraction from local aquifers.
43. There were numerous comments expressing concern over the “trading” and “privatisation” of public water resources. Several respondents were opposed to the transfer of water permits between users and/or the potential to “sell” the water.
44. Several respondents expressed concern about the impact of afforestation on water yield. It was suggested there should be more integrated management of land and water use to deal with any such effects. However, the forestry industry respondents felt they are unfairly regulated when water users downstream gain considerable financial benefit through securing water permits.

### Later consultation

45. In 2012, the Council held a two day water forum to further discussions with the community about the future of water allocation in Marlborough. The forum included information on the current status of the District’s water resources, the challenges ahead, legislative/central government requirements, possible options and water user’s perspectives. The forum offered many high calibre speakers, including experts in land and water reform, hydrology, resource management law, policy, economics, modelling and water use/crop requirements. In addition, the forum was enhanced by contributions from water users, industry and practitioners.
46. Following the forum, a working group was formed to assist the Council in developing the future water allocation framework. The Water Allocation Working Group (WAWG) included different types of irrigators (vicultural, pastoral, horticultural), users of different water resource types (groundwater and surface water) and users from different locations throughout Marlborough. The group was assisted by Council staff and experts in freshwater management. A sitting Councillor was also on the group.
47. The WAWG identified options for addressing a range of issues, including new issues identified as a consequence of legislation, the NPSFM or as part of the work done by the WAWG. These new issues included full allocation of water resources, allocative efficiency, over allocation of water resources, setting of limits, equitable access to water and effects of afforestation on water yield. However, some existing issues were still apparent and needed to be addressed, including access to reliable supplies of water, the effects of groundwater abstractions on surface water resources and demand for water being greatest when river flows and aquifer levels are at their lowest.
48. In early 2015, a second Water Forum was held. Approximately 1100 water resource users were advised of the forum and the opportunity to hear the proposals developed for managing water allocation and use in the future.
49. The Forum was followed by 14 community meetings that focussed on management proposals for specific water catchments/aquifers. A presentation was made on the issues relevant to each specific water catchment/aquifer, which was made available on the Council’s website. Also made available for feedback were the objectives, policies and rules for water allocation.
50. A series of one-to-one meetings were held with the DOC, Fish and Game, Federated Farmers, MFIA, Trustpower Limited and the Iwi River Advisory Committee. There were also

many phone calls and meetings between Council staff in both the Policy and Science Departments and members of the public as an outcome of the community meetings.

51. The Council sought feedback through the community meetings and approximately 85 responses were received. This feedback has helped to refine the provisions for water allocation that have been included within the MEP, and included feedback on the reasonable use test, setting limits, storage, enhanced transfer, over allocation and afforestation controls.
52. The issues raised through the feedback included the following:
  - Water users questioned why reliability could not be 100%, especially in under-allocated resources. There was some lack of understanding about the consequences of the proposed approach, e.g. some users thought 1 year in 10 they would have no water in the 10<sup>th</sup> year, rather than 1 year in 10 only having enough to meet 90% of the plants water use requirements. There was also a perception by many users that they already had 100% reliability whereas, for the most part (viculture), the WARMP only provides for 80% reliability;
  - Aquifer water users showed a preference for annual allocations for water use so they were able to use water if and when they chose to within the irrigation season. Alternatively, some users questioned whether unused monthly allocations could be carried over to subsequent months;
  - Water users on the Plains sought to be able to put aquifer water abstracted via their consents into storage;
  - Considerable concern about the proposed management for the Spring Creek area in particular. This included what the environmental flow should be, and how it should be determined, as well as equity concerns relating to the impact of water users to the west on flows in the springs;
  - Fish and Game expressed a view that the environmental flows for almost all the District's surface waterways should be based on the PNESEF;
  - Short-term allocation integration with long-term water allocation;
  - Fish and Game did not support the proposed management for the Wairau River, in particular, the proposed changes to the flow sharing regime and the lack of a change to the minimum flow;
  - Many water users raised concerns about the monetisation of water as result of the introduction of the enhanced transfer system. There was strong feeling expressed that there should be no money involved in transfers. One alternate view was expressed by Federated Farmers who strongly advocated for a trading regime involving the exchange of money;
  - A priority of allocation for industrial, hydroelectric power generation and food production was highlighted by several parties. Priorities were set out in draft policy and (a) to (d) of the policy covered instream values, aquifer recharge, and domestic, stock and municipal water supplies. The last priority (e) covered all other takes of water. It is this last priority for which issues have been raised. Feedback from people or organisations associated with industrial water use, hydroelectric power generation and food production all sought to have specific allocations for their water uses separately provided for, and at a higher level than others covered by (e);
  - It was proposed to reduce the Permitted Activity dam size down from 20000m<sup>3</sup> to 5000m<sup>3</sup> to better reflect the purpose of the enablement, stock water supply. The issues raised in consultation were not about the decrease in water volume, as 5000m<sup>3</sup> is reasonable for the purpose, but the secondary effect that the change would have on the construction of off-stream dams, i.e. dam structures with a capacity greater than 5000m<sup>3</sup> would require resource consent;

- The use of incidental water use (e.g. vehicle washing, small scale spraying and line flushing) was raised as an issue as there were concerns that very minor water uses, particularly outside of the irrigation season, might technically require consent under the proposed provisions but the nature of the water use is so minor that this would be an unsatisfactory outcome.
53. In terms of the proposals for setting limits for the Awatere, Flaxbourne, Havelock, Rai/Pelorus, Riverlands, Southern Valleys, Tuamarina River, Wairau Aquifer (Coastal), Wairau Aquifer (Recharge) and Wairau River areas, no significant issues were raised by water users and in some cases no feedback was received.
54. Other feedback on the limits included the following:
- In the Southern Springs catchment most respondents agreed with proposed minimum environmental flow, while water users in the Waihopai/Omaka area only raised concerns in the Lower Waihopai area. Fish and Game supported the imposition of the Wairau River minimum flow on Waihopai River water permit holders. Fish and Game also questioned whether Wairau River minimum flows should be applied to Wairau Aquifer permits that affect Wairau River flows;
  - Water users raised several issues in the Wairau Aquifer (Springs) area including the lack of science behind proposed limit, the impact of irrigators to the west and equity concerns regarding the extent to which restrictions apply;
  - For the Wairau River only, Fish and Game raised concerns with the proposed regime over both allocation and environmental flow limits. However, they supported the setting of allocation and environmental flow limits for Northbank tributaries;
  - Federated Farmers supported restrictions on the exercising of water permits when applicable environmental flows and/or levels are reached, and especially exclusion of stock water takes from having these limits applied.

## Statutory Documents

55. The statutory documents relevant to the higher level provisions that the rules and standards discussed in this report implement are set out in the section 32 report entitled "*Chapter 5 - Allocation of Freshwater Resources*."
56. Since the publication of that section 32 report, there are three further matters of note regarding these documents:
- The National Policy Statement for Freshwater Management 2014 (NPSFM) was updated in August 2017 to incorporate amendments from the National Policy Statement for Freshwater Management Amendment Order 2017. Much of the update was around water quality and not of direct relevance to this hearing topic, however there were some amendments with regards to Te Mana o te Wai that are relevant for the whole of the NPSFM;
  - The Proposed National Environmental Standard on Ecological Flows and Water Levels 2008 (PNESPF) has recently been getting attention again with the Ministry for the Environment, and indications from the Ministry is that it is not likely to go any further and that they are look to make further amendments to the NPSFM as an alternative. I understand there is consultation due take place on the matter in early 2019;
  - The National Environmental Standard for Plantation Forestry (NESPF) came into effect on 1 May 2018. It provides a set of rules that apply nationwide to activities relating to plantation forestry. Under Section 43A(5) of the RMA, where an NES allows an activity, terms and conditions for that activity can be specified in a plan but only where

these deal with the effects of the activity that are different from those dealt with in the NES. Of relevance to this hearing topic, are the Permitted Activity standards that manage the effects of forestry on water yield.

## **Analysis of submissions**

57. This report contains assessments and recommendations relating to specific submission points as listed in Appendix 1 and referenced throughout the report.
58. There are some submission points that do not seek a specific decision, and for which one cannot be inferred. Due to their nature no recommendation can be made at this time.

## **Key Matters**

59. The analysis of the submissions points are set out by matter under the headings below:

Matter 1: The diversity of water resources makes it difficult to achieve uniformity in water allocation and water use management regimes across the District.

Matter 2: The taking, damming or diversion of water can compromise the life-supporting capacity of rivers, lakes, aquifers and wetlands.

Matter 3: Marlborough's social and economic wellbeing relies on an adequate supply of freshwater.

Matter 4: Many water resources are fully allocated or are approaching full allocation, inhibiting the opportunity to provide for further demand for water resources.

Matter 5: The over-allocation of water resources creates a risk that the cumulative abstraction of water from the resource will exceed the safe yield, creating significant adverse effects on natural and human use values and threatening the reliability of existing water uses.

Matter 6: The taking of groundwater in proximity to rivers can individually or collectively reduce flows in the rivers.

Matter 7: Allocating more water than is actually required for any use creates the potential for inefficient use of water. This can compromise the sustainability of the resource and prevent other users accessing water.

Matter 8: Demand for water typically peaks when river flows and aquifer levels are at their lowest, which can cause short-term water availability issues.

Matter 9: There is the potential for a new water user to get access to water on a more reliable basis than allocations already made, resulting in inequitable outcomes.

Matter 10: Definitions.

Matter 11: Submissions not covered elsewhere.

## **Pre-hearing meetings**

60. There have been no pre-hearing meetings for this topic.

## **Matter 1: The diversity of water resources makes it difficult to achieve uniformity in water allocation and water use management regimes across the District.**

61. Matter 1 includes - Issue 5A, Objective 5.1, Policies 5.1.1 and 5.1.2, and FMU Overlay Maps 1-4

### Issue 5A

62. Issue 5A reads as follows –

*“The diversity of water resources makes it difficult to achieve uniformity in water allocation and water use management regimes across the District.”*

Issue 5A only had submissions in support so there is no assessment of submissions and no need for this paragraph, however the Issue is the starting point for the provisions that respond to it, so I have included it here as a reference point for the reader.

### Objective 5.1

63. Objective 5.1 reads as follows –

*“Water allocation and water use management regimes reflect hydrological and environmental conditions within each water resource.”*

64. There are seven submissions<sup>1</sup> that support Objective 5.1 and seek its retention as notified.
65. Between the two of them, Federated Farmers submission (425.026) and the Horticulture NZ submission (769.008) seek that the Objective and the explanation are amended to state that regimes will also reflect social and economic values, or the values identified for the water resource. The submitters are of the view that regimes should also reflect the human use and primary production values associated with the water resource, and further state that under the NPSFM objectives are based on values that are identified and the relevant attributes, and that setting a priority as in Objective 5.1 is not consistent with the NPSFM.
66. The water allocation provisions do address the consideration of values, particularly in the policies under Objective 5.2, which provide a clear link between setting environmental limits (establishing regimes) and values. The water allocation and use provisions are a collective management response, and as a suite of provisions give effect to the NPSFM. This Objective does not have a priority over other objectives in this chapter, it reflects an aspect of establishing a regime in response to an Issue, and it should not be considered in isolation from other provisions that also contribute to regimes.
67. The Trustpower Limited submission (1201.015) seeks that “water resource” is replaced with “freshwater management unit” within the text of the Objective, and that the explanation to the Objective is amended to read that, in addition to “*hydrological and environmental conditions*”, “*physical*” conditions are reflected in regimes. The submitter is of the view that the MEP should use consistent terminology throughout, and this should also be consistent with the NPSFM.
68. I do not disagree with the submitter, and hope that the MEP does reflect this desired consistency, however in this instance, this is the very Objective from which a Policy (5.1.1)

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<sup>1</sup> 479.007 (DOC), 509.027 (Fish and Game), 548.008 (AWUG), 688.011 (J and J Hellstrom), 715.008 (Forest and Bird), 908.001 (Lion) and 1039.004 (Pernod Ricard)



establishing FMUs stems, so in a way to reference FMUs in the Objective would be a bit like putting the cart before the horse. It may be appropriate to include “*physical*” in the explanation, however it would be useful for the submitter to give examples of these types of resources and how they would envisage them being taken into account in a regime. On the surface of it, adding “*physical*” may not sit comfortably with later provisions around limit setting, such as Policy 5.2.4.

69. The MFIA submission (962.032) seeks that the Objective (assume wider provisions) ensures that there is equitable allocation of the water resource, recognising passive and abstractive use and, in its view, there needs to be equitable allocation of resource between passive and abstractive use. Without further information, an assessment and recommendation on this point is not possible, specifically in relation to this specific provision.

### **Recommendation**

70. It is recommended that Objective 5.1, and the associated explanation, are retained as notified.

#### **Policy 5.1.1**

71. Policy 5.1.1 reads as follows –

*“Define and use freshwater management units to apply appropriate management to the taking and use of water within each water resource.”*

72. There are seven submissions<sup>2</sup> that support Policy 5.1.1 and seek its retention as notified.
73. The Federated Farmers submission (425.030) seeks retention of the Policy but wants the explanation to include further information with regards to the identification of FMUs and the manner in which they are intended to be utilised going forward. This concern is based on the submitters observation that there is considerable variation across the country.
74. The variation across the country is a reflection of the NPSFM, it is a directive that allows for this and by design leads to that outcome (i.e. water management, including establishing FMUs, reflects the local settings). In my view, the MEP provisions show how the FMUs are used in the management of water, however if the submitter’s concerns were further articulated and a need was established, I see no issues with the development of non-regulatory guidance material.
75. The Fish and Game submission (509.028) and the EDS submission (698.011) seek similar amendments of the Policy to explain how the natural and human use values relating to water resource units in Appendix 5 relate to the Freshwater Management Units in Appendix 6. In my view, if this concern needs to be addressed, and it may well do, it would be better to amend later provisions/explanations around values rather than this specific Policy.
76. The Forest and Bird submission (715.009) seeks retention of the Policy but wants the explanation to state the identification of FMUs will include a flow needs assessment for rivers as this will mean that better water allocation decisions can be made.
77. It is not clear for the submission what a flow needs assessment involves or how it is intended to inform the process of identifying FMUs, it sounds like perhaps it is something that would be better suited to addressing in provisions under Objective 5.2. Forest and Bird lodged a similar submission (715.006) on Chapter 5 in general.

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<sup>2</sup> 479.008 (DOC), 548.009 (AWUG), 631.003 (Constellation), 688.012 (J and J Hellstrom), 778.010 (Irrigation NZ), 1201.016 (Trustpower Limited) and 1242.003 (Yealands)

78. The Friends submission (716.042) seeks an amendment of the Policy, however the focus is on water quality, and although there are links between quality and quantity, I am not able to understand the amendment sought in the context of this Policy sufficiently to enable me to make an assessment and recommendation. It is hoped that the submitter will provide hearing evidence that clarifies the relief sought.
79. The Horticulture NZ submission (769.009) seeks an amendment to the explanation for the Policy as follows –
- “To ensure that the management applied to the taking and use of water is appropriate to the ~~hydrological and environmental circumstances~~ **identified values**, it is necessary to distinguish between the different catchments and aquifers that exist in Marlborough. The Council will achieve this by identifying Freshwater Management Units (FMUs), which will be based on the hydrological characteristics of each water resource and the ~~natural and human use~~ values supported by the waterbody/bodies....”*
80. The submitters are of the view that the explanation needs to be amended to include all identified values. The explanation to the Policy is appropriate as notified and the minor amendments the submitter has made with little justification are not necessary as the Policy as worded reflects the integrated nature of the provisions.
81. The Dairy NZ submission (676.018) seeks for text from Policy CA2 in the NPSFM be inserted as the submitter is of the view that the NPSFM directs the Council to identify FMUs based on hydrological characteristics and natural and human use values, and therefore the relevant values from NPSFM Policy CA2 should be listed for clarity so all values (including economic values) are appropriately considered.
82. The submitter is incorrect. Policy CA2 directs Councils to develop objectives for all FMUs, and the only Policy relevant to the identification of FMUs (CA1) and therefore directly relates to Policy 5.1.1, simply states – *“By every regional council identifying freshwater management units that include all freshwater bodies within its region.”* The NPSFM definition for FMUs provides further clarification, and also does not support the submitters assertions. That definition reads – *“is the water body, multiple water bodies or any part of a water body determined by the regional council as the appropriate spatial scale for setting freshwater objectives and limits and for freshwater accounting and management purposes”*.
83. The Fish and Game submission (509.371) is a general submission on Appendix 6, however it is better addressed relative to Policy 5.1.1. This submission states that FMUs boundaries on maps need to align to represent the same geographical areas and ensure that each freshwater body is only represented in one FMU.
84. This is incorrect. There are many water management reasons to identify an FMU and as a result some areas may be covered by more than one FMU, which is entirely appropriate. By way of example, the southern coastal area of the Wairau Plains is identified as being within the Wairau Aquifer FMU for the purposes of water quantity allocation but within the Wairau Aquifer South Coastal FMU for the purposes of minimum aquifer and conductivity levels. Water resources also do not sit in two dimensions the way a hard copy planning map does and some areas may have shallow aquifers stacked on top of deep aquifers, or rivers flowing over aquifers that require different management. In due course, there will also be FMUs in relation to cumulative limit setting (water quality), which will potentially involve FMUs with different boundaries than those already established.

### **Recommendation**

85. It is recommended that Policy 5.1.1, and the associated explanation, are retained as notified.

## FMU Overlay Maps

86. The FMU Overlay Maps 1, 2 and 3 include FMUs that relate to water allocation but are also relevant to environmental limits (flows, levels, conductivity). FMU Overlay Map 4 identifies other areas where specific management is applied.
87. FMU Overlay Map 5 is not especially relevant to this hearing topic however it has received one submission to be considered. The submission, from P Rene (1024.003) only seeks further information, there is no relief sought for which an assessment or recommendation can be made. The request for information is to general for me to even offer a comment to assist.
88. In regards to FMU Overlay Map 1, the S and L Radich submission (492.001) seeks that their property be re-categorised as falling within the Wairau Aquifer FMU and that the boundary be adjusted accordingly. They advise that their property is included as part of the Southern Springs FMU, at the northern boundary of that FMU. The submitters are of the view that there is no justification for it to be included in the Southern Springs FMU.
89. This submission has been considered by Peter Davidson (Groundwater Scientist), who notes the following –
- Defining hydrogeological boundaries is always difficult as they can shift depending on seasonal conditions.
  - There is a strong north-south change in the thickness and nature of the subsurface geology as well as the source of recharge as you traverse the Wairau Plain.
  - Based on the predominant source of recharge water to this property under dry weather conditions being the Southern Valleys catchments rather than the Wairau River, it is appropriate to classify it within the Southern Springs FMU.
  - This approach is based on hydrological observations over many years including severe drought.
  - The boundary could be adjusted if there was a strong case and hydrogeological evidence.

Based on the advice of Mr Davidson, there is justification for the submitters property to be within the Southern Springs FMU, and the submitter has not provided any evidence to the contrary.

90. In regards to FMU Overlay Map 1, the MDC submission (91.112) seeks that the northern boundary of the Omaka River FMU be re-examined to ensure that the FMU accurately reflects the influence of the Omaka River but also the Wairau Aquifer on groundwater levels in the northern part of the FMU. MDC hydrologists Peter Davidson and Val Wadsworth have reviewed the boundary of the Omaka River FMU and are satisfied that the MEP version reflected the latest hydrological information regarding water flow direction and boundaries. On the basis of the advice received, no changes are recommended as a result of this submission as the re-examination showed the notified mapping to be accurate.
91. In regards to FMU Overlay Map 2, the MDC submissions (91.260, 91.314 and 91.315) seek to amend the FMU boundaries as follows –
- Amend the boundary between Flaxbourne (Central) FMU and Flaxbourne (Lower) FMU, as shown by the heavy black line on the map in submission point 91.260, as the relief sought is more appropriate as the boundary would follow the ridgeline rather than the stream. There is one further submission directly relating to point 91.260, it is from Pernod Ricard and is in support.

- The boundaries of the Lower and Upper Pelorus FMUs need to be adjusted to correct a mapping error, as shown by the heavy black line on the map in submission point 91.314. The amended boundaries will be consistent with the description of the boundaries in Appendix 6. There is are no further submissions directly relating to point 91.314.
- Amend the boundaries of the Boundary FMU, as shown by the heavy black line on the map in submission point 91.315, and described as the north-eastern extent of the Boundary FMU was intended to include all areas where groundwater takes were likely to cause stream depletion from the spring derived streams such as Excell Stream, Huddleston Stream, and Mill Creek. However, the northern boundary was placed too far north, and captured a number of takes which are closer to the Wairau River, and are more correctly placed in the Wairau River FMU. The boundary between the two FMUs has been redefined slightly south, generally following the main terrace, below which the Wairau river is the predominant influence. At the same time slight corrections have been made on the southern edge of the Mill Creek catchment to better reflect the hydrology of this area. There is are no further submissions directly relating to point 91.315.

92. In regards to FMU Overlay Map 2, the submission from AWUG (548.143) only seeks further information, there is no relief sought for which an assessment or recommendation can be made. By way of comment to assist the submitter, areas of Map 2 without FMUs identified may have FMUs identified on other maps, may have FMUs that are described in Appendix 6 but are not mapped or may have FMUs that are not specifically defined. In the latter case, this is where the default provisions around environmental flows and levels would apply.
93. In regards to FMU Overlay Map 3, the N Ham submission (375.002) has concerns about the fairness of the western boundary of the FMU, however does not elaborate on the reasons behind these concerns. The remainder of the submission appears to take issue with the water management approach in the area the submitter has land, this will be dealt with later as part of a collective of submissions on the management regime for the Wairau Aquifer Northern Springs FMU.

### ***Recommendation***

94. It is recommended that FMU Overlay Map 1 is retained as notified.
95. It is recommended that FMU Overlay Map 2 is amended to reflect the mapped changes sought in submission points 91.260, 91.314 and 91.315.
96. It is recommended that FMU Overlay Map 1 is retained as notified.

### **Policy 5.1.2**

97. Policy 5.1.2 reads as follows –

*“Recognise that the taking of water and the use of water are two distinct activities and where resource consent application is to be granted, separate water permits for each activity will be granted.”*

98. There are seven submissions<sup>3</sup> that support Policy 5.1.2 and seek its retention as notified.
99. The Horticulture NZ submission (769.010) seeks the removal of this Policy or that it is amended to read – *“Recognise that the taking of water and the uses of water are interrelated*

<sup>3</sup> 509.029 (Fish and Game), 548.010 (AWUG), 688.013 (J and J Hellstrom), 715.010 (Forest and Bird), 778.011 (Irrigation NZ), 1039.005 (Pernod Ricard) and 1201.017 (Trustpower Limited)

*and will be managed together*". In the submitters view, the Policy seeks to separate out the taking of water from the use of water. The two are closely linked and it is more appropriate to consider the take and use as a 'package'.

100. The submitter is correct that the Policy separates take from use, and very deliberately so, however the opening statement of the explanation alone references that most takes have an associated use, and other text links use to take (allocation). The deletion of the Policy would not assist users in making applications for resource consent, and the proposed amended defeats the purpose of the Policy.
101. The G Crosswell (estate) submission (217.003) seeks for the MEP to include controls to prevent the sale and marketing of water outside the district so that Marlborough does not create an Ashburton Lot 9 scenario. The approach in the Plan is to not prioritise water abstractions for private profit, i.e. for the Council to not "*pick winners*". While there have been some other submitters that seek priority for their particular industry, these submissions have not been supported. In principle, if the take and use of water is within sustainable limits, and has no adverse effects on the environment, then there is little reason to refuse consent. It is acknowledged that the concern raised is potentially valid for other reasons, however it is challenging to consider drafting provisions to exclude an activity when the "effects" are more along the lines of not allocating water for the purposes of retaining it for future use within the district (that may never happen).
102. The Friends submission (716.043) is the same as the submission on Policy 5.1.1, and my response is also the same.

### **Recommendation**

103. It is recommended that Policy 5.1.2, and the associated explanation, are retained as notified.

### **New Policy**

104. The Ngāi Tahu submission (1189.033) seeks a new policy to read as follows –

***"The assessment of separate consent applications for the take and use of water will be considered together, and where a hearing is required, the hearing will hear both applications together."***

105. Ngāi Tahu supports the approach taken in Policy 5.1.2 for separate take and use permits on the proviso that applications are linked and considered together. As they are of the view that, while the activities of taking and using water will have different effects, there will be cumulative effects arising from the combination of the activities. Further, considering applications to take and use together is consistent with the holistic approach by Ngāi Tahu to environmental management, and it is consistent with s91 of the RMA.
106. In most instances water permits to take and use water will be considered together, however not always, and neither should they be. If a consent holder wishes to change the use of their water but all aspects of the take will remain the same, why should they be required to reapply for their take water permit? Or, if a consent holder wants to change the location of their water take and needs a new take permit but is not changing what the water is used for, why should they have to apply for a new use permit? Policy 5.1.2 does not say a water user is not required to obtain all the relevant permits, just that consents will be granted for take and use separately. If a water take permit is sought where no water use permit is sought or held, s91 would be relevant and nothing in Policy 5.1.2 limits its application as intended under the RMA. In my view, there are no gaps in Policy 5.1.2 that need to be fixed by this proposed new policy, and the policy sought would place unnecessary requirements on some water users, particularly as likely public notification of an application could lead to unnecessary relitigating of a permit that otherwise need not be sought.

## **Recommendation**

107. It is recommended that unless otherwise specified above, the provisions under Issue 5A are retained as notified.

## **Matter 2: The taking, damming or diversion of water can compromise the life-supporting capacity of rivers, lakes, aquifers and wetlands.**

108. Matter 2 includes - Issue 5B and Objective 5.2. 25 policies fall from these provisions and are covered below in the groupings in which they appear in the MEP, under the applicable topics headings. Where appropriate, other provisions from Volumes 2, 3 and 4 may also be covered within these groupings.

In this initial section the following provisions are also covered –

- Volume 2 – Heading 2.1, Rule 2.1.1, Standard 2.1.1.2; and
- Volume 3 – general submissions on Appendix 6.

### Issue 5B

109. Issue 5B reads as follows –

*“The taking, damming or diversion of water can compromise the life-supporting capacity of rivers, lakes, aquifers and wetlands.”*

110. There are two submissions<sup>4</sup> that support Issue 5B and seek its retention as notified.

111. The MFIA and Windermere Forests Limited submissions (962.012 and 1238.006) seek that the word “take” should be defined to not include water used by growing trees. The submitters are of the view that it is not clear if the use of water by growing trees constitutes “taking”, and if it does, the forestry sector cannot avoid conflict with Objective 5.2 and the Policies 5.2.1 through to 5.2.17 that relate to that Objective.

112. In the context of Issue 5B, and the provisions that respond to it, the take of water is as per s14 of the RMA, not the direct uptake of water by plants. Later provisions address the effects of new afforestation on flow sensitive sites but even then, it is as an effect of a land use activity, rather than an activity for which a water permit to take water is required.

113. The Horticulture NZ submission (769.011) seeks that all of paragraph one and the first sentence of paragraph two are deleted and, while it does not specifically state this in the submission, it appears the submitter may intend for the following paragraph to replace the deleted text –

*“Marlborough’s freshwater bodies sustain a diverse range of values, including cultural and spiritual values, recreation values, habitat values, landscape values, community values such as drinking water, food production values and commercial and economic values. The water that flows in rivers or is contained in aquifers, lakes and wetlands sustains Marlborough’s community and environment.”*

114. In addition, the submitter seeks the deletion of all references to “natural and human use” values and only use “values”. The submitter agrees that the taking, damming or diversion of water can compromise the life supporting capacity of rivers, lakes, aquifers and wetlands, however in its view the discussion in the Issue centres on “natural and human use” values,

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<sup>4</sup> 509.030 (Fish and Game) and 715.011 (Forest and Bird)

which appear to be a limited set of values and not include the range of values identified in the NPSFM.

115. In the context of these provisions the submitter is correct, the term “*natural and human use*” is used to capture a certain set of values that are to be protected. It is not intended to capture all values, not all environmental limits are set to protect all values. This set of provisions is about setting bottom-lines to protect values that are of a cultural, spiritual, recreational, ecological, landscape, natural character and life-sustaining nature, and the like. Water has value for other reasons but it is not appropriate to set limits to protect all values in the same way. What would the minimum flows and levels be if food production, commercial and economic values were to be protected in the same way as the other values described above? These provisions as notified go to the purpose of the Act (paraphrased) – managing the use and protection of natural and physical resources in a way which enables people to provide for their wellbeings while safeguarding the life-supporting capacity of water.
116. The Ngāti Kuia submission (501.005) does not specify a relief sought for which an assessment or recommendation can be made, however states the Issue is generally supported, however the damming of a waterway compromises the mauri of a resource.

### **Recommendation**

117. It is recommended that Issue 5B, and the associated explanation, are retained as notified.

### **Objective 5.2**

118. Objective 5.2 reads as follows –

*“Safeguard the life-supporting capacity of freshwater resources by retaining sufficient flows and/or levels for the natural and human use values supported by waterbodies.”*

119. There are eight submissions<sup>5</sup> that support Objective 5.2 and seek its retention as notified.
120. The Trustpower Limited submission (1201.018) seeks that the word “*waterbodies*” in the Objective be replaced with “*Freshwater Management Units*”, as in its view it would then be consistent with the use of terminology throughout the MEP.
121. I am comfortable that the notified text is appropriate as it is setting up the framework for establishing limits, a process which includes establishing FMUs (Policy 5.1.1). Once this set of provisions gets to the details of setting limits, the terminology changes to FMUs, which is appropriate. The use of freshwater/waterbodies in the Objective is consistent with the NPSFM, which does not use the term FMU in provisions until limit setting is discussed at policy level.
122. The Ngāi Tahu submission (1189.035) seeks that the Objective is amended as follows –
- “Safeguard the life-supporting capacity of freshwater resources by retaining sufficient flows and/or levels for the **health of the resource as a first priority, followed by** natural and human use values supported by waterbodies.”*
123. The submitter states that the intent of the Objective is largely supported, however the outcome of the Objective is not clear, and it also presumes a philosophical approach whereby freshwater resources need to only be protected to a sufficient level that will support human use. Ngāi Tahu is of the view that allowance needs to be made for the resource itself not to just function and survive, but to maintain healthy levels, at the same time as providing for the sustainable use of the resource.

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<sup>5</sup> 509.031 (Fish and Game), 425.027 (Federated Farmers), 548.011 (AWUG), 688.014 (J and J Hellstrom), 715.012 (Forest and Bird), 479.009 (DOC), 1039.006 (Pernod Ricard) and 908.002 (Lion)

124. I am not clear how the submitter has reached the conclusion that the provisions are only seeking to protect human use values as the Objective itself clearly states natural and human use values. The explanation to the Objective seems to reinforce this in my view, so on the basis that perhaps the relief sought is a consequence of misinterpretation, I do not support the changes sought by the submitter and do not assess this point any further.
125. The Wairau Valley Residents submission (1235.004) makes a statement rather than seeking specific relief, therefore no assessment or recommendation has been made. The submitters state that they expect the Council to be actively monitoring the issue regarding a dangerous drop in the level of flow and not to rely on complaints or concerns before doing anything about it. The Council has real-time monitoring of the water flow in the Wairau River, and a significant number of resource consents that are subject to restrictions based on those flows, therefore it actively monitors the flow in that river.
126. The NMDHB submission (280.012) is seeking an amendment to the wording of the explanation to the Objective to include the “*safety of the community*” as another reason for natural and human use values being important to retain.
127. This may be appropriate, it is not inconsistent with the purpose of the Act to reference safety in this way, however I am not convinced by the submission – what do they mean by safety? The only clue is in the wider content of the submission where the importance of allocation for human consumption is discussed in relation to the Chapters introductory text, however in my view, this is specifically covered under Issue 5C (e.g. Policy 5.3.4). If it is safety in terms of drinking water quality, then these provisions are not the place for that as water quality is addressed elsewhere in the MEP. At this time, with the information supplied, I do not support this amendment but I would be interested to hear further evidence.
128. The Friends submission (716.045) seeks a replacement of the Policy text entirely with the following –
- ~~“Safeguard the life-supporting capacity of freshwater resources by retaining sufficient flows and/or levels for the natural and human use values supported by waterbodies. When making decisions about water use the life supporting capacity of the waterbody must be safeguarded.”~~
129. The justification for this change is “*this important parameter is the life-supporting capacity of the waterbody*”. I am uncertain about the reason for the amendment sought and what issue it is attempting to resolve. The submitter also frames the Objective in the context of water use, which is not appropriate as that is not the activity these provisions are seeking to manage. At this time, subject to clarity at the hearing, I do not support the relief sought.
130. The Horticulture NZ submission (769.012) seeks the deletion of the text “*natural and human use*” where use in the Objective 5.2 and its associated explanation. The submitter is of the view that, while it supports the safeguarding of the life supporting capacity of the freshwater resource, it should be for the “*values*” identified for the waterbody.
131. This is similar to Horticulture NZ’s submission point 769.011 on Issue 5B, so I will not repeat my views on the matter generally. I do note that in this submission the submitter states it should be for the values identified for the waterbody. The values are identified in Appendix 5 so in that respect the Objective does as is sought, however I suspect that is not what the submitter is meaning.
132. The Ngāi Tahu submission (1189.034) is a general submission on the whole of Chapter 5, which I consider appropriate to assess in relation to Objective 5.2. The submitter seeks a new policy to identify the natural and human use values as they are of the view that the term is slightly ambiguous in that it lends itself to interpretation, and differing views about natural



and human use values. Alternatively, the term is retained in amended provisions in the interests of consistency, however Ngai Tahu records its issues with the phrase.

133. In my view, the explanatory text for Issue 5B (and in other provisions under 5B) and the specific reference to Appendix 5 in the explanation to Policy 5.1.1, are sufficient and an additional policy is not necessary.
134. The Fonterra submission (1251.001) seek to replace the text of the Objective with the following –
- “Waterbodies retain sufficient flows and/or levels to:***  
***(a) safeguard the life supporting capacity.***  
***(b) provide for non-consumptive human use values.”***
135. The submitter is of the view that retaining sufficient flows for the human use values identified in Appendix 5 of the MEP goes beyond “*safeguarding the life-supporting capacity*” of water as the Appendix includes recreational use values, hydro-electricity generation and municipal water supply. Fonterra does not consider recreational use values (in particular) to be an inherent component of “*life-supporting capacity*”.
136. Safe-guarding the life-supporting capacity of waterbodies retains many values that are not necessarily additionally provided for when establishing flows and levels. For example, setting sufficient flows to protect freshwater biota will also mean there are sufficient flows to enable mahinga kai and some recreational uses. Some safe-guarding for certain fish species links back to s6 of the RMA, which in turn essentially relates to recreational activities (fishing), and in most cases the flows required for those fish exceed those required for native fish. So, safeguarding the life-supporting capacity links in with multiple natural and human use values. There are also many aspects of these protections that are about providing for peoples social and cultural wellbeings, which is linked to safeguarding the life-supporting capacity of water. I am concerned at the suggestion that the human use value protection is limited to non-consumptive uses as this provision protects the consumptive values of domestic and stock water (outside of municipal supplies). While the values of municipal supply and hydro-electricity generation identified in Appendix 5 are perhaps not quite the same fit for natural and human use values, there are other factors that contribute to their place in Appendix 5 (such as national direction and the importance of drinking water). As consented activities they are clearly dealt with elsewhere in the Chapter 5 provisions. I do not support the relief sought as being a better response to the Issue.
137. The K Saville-Smith and B James submission (370.005) seeks the addition of a new policy under this Objective in the section "Setting of Environmental limits", which requires the Council to review the limits set in Schedule 3 of Appendix 6 as further data becomes available. The submitter has noted that the s32 evaluation notes that the Council does not have sufficient hydrological information and other relevant environmental data to establish a specific allocation limit in all FMUs. The submitter is of an understanding that further data will be collected to establish a proper evidence base for all areas to support the proposed water restrictions set out in Appendix 6. They further state that it is important to acknowledge that all parts of the aquifer are interconnected, and accordingly they suggest that when further data is available for all areas, the areas where full restriction is to be applied (as set out in Appendix 6) are reviewed to ensure that the nature and extent of restrictions applied across the whole aquifer are fair to all users and effective in maintaining the aquifer.
138. The submitter has sort of taken the s32 comments out of context and mixed them with other information that is not really related. The s32 discussion relates to having a policy in the MEP that would put in place a default allocation limit where the Council had insufficient information to set a limit in the MEP. FMUs in this circumstance are not in Appendix 6 (as they have no specific limits) and therefore all the submitter's comments re Appendix 6 and evidence gathering do not relate to this default policy. When it comes to allocation, the

reason the Council does not hold information is often because there is no demand for water in these catchments, therefore resources are not used to monitor them. Until there is an indication that there is demand this is unlikely to change, and at this time there are allocation limits in Appendix 6 for all the FMUs for which there is demand. The NPSFM requires the Council to impose environmental limits, including allocation limits, on all FMUs, therefore it was necessary for the MEP to include a default to cover any FMUs not previously managed. The submitter appears to have something specific in mind around aquifers but it is not clear enough for me to comment further. Referencing the specific relief sought rather than the explanation in the submission, it is not necessary to add a policy requiring a review of the limits as the limits are the product of a review. This does not limit the Council from doing a plan change if appropriate, should new information change the current situation, however a policy is not required to direct this to occur.

139. The Fish and Game submission (509.048) seeks new policy under Objective 5.2, which states that the measurement of the flow or level of an FMU is undertaken at the monitoring site specified in Schedule 3 of Appendix 6 as they are of the view that this would be useful.
140. In my view, this is unnecessary, Schedule 3 clearly states the relevant monitoring site for each FMU and the note associated with that column in the table (two asterisks in the column heading) states that the monitoring sites are identified on the FMU maps. Method 5.M.1 states that regional rules will be used to impose environmental limits, and Rule 2.1.1 takes Plan users directly to Appendix 6. If the Panel is of a mind that there is some deficiency in the MEP with regards to relating provisions in the different Volumes, I could suggest additional text that perhaps could be added to some explanations within the existing policies.

### ***Recommendation***

141. It is recommended that Objective 5.2, and the associated explanation, are retained as notified.

### **Heading 2.1**

142. Heading 2.1 is "*Environmental Flows and Levels*".
143. There are two submissions<sup>6</sup> that support Heading 2.1 and seek its retention as notified.
144. The Fish and Game submission (509.204) seeks that the Permitted Activities contained in Section 2.2 are amended to ensure that these activities cease when the particular FMU is experiencing low flows. Alternatively, Fish and Game seek that the Permitted Activity take amounts are reduced overall and that during low flows, the permitted amounts are further reduced and all permitted takes cease during extreme low flows, which will direct people toward storing water at appropriate times. In the submitters view, the Permitted Activities provided for have not been taken into account in the flows and allocations contained in Appendix 6 to the Plan. They are concerned that the Council has no way of controlling the Permitted Activities in the situation where the water resources within the FMUs fall below the minimum flow requirements.
145. I appreciate the challenge raised by Fish and Game, however the nature of Permitted Activities is such that you do not know when or who is operating under those provisions. It is not realistic to include them in the allocation regime in Appendix 6, as how would you ever be able to monitor if the resource is fully or over-allocated relative to the Plan limit. Similarly, as you do not know who is taking water under the Permitted Activity provisions how could you advise them to reduce or cease taking water, and enforce those restrictions? The environmental limits are developed to provide for the natural and human use values of FMUs, which includes the Permitted Activities. It is possible that due to natural conditions,

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<sup>6</sup> 1039.104 (Pernod Ricard) and 908.018 (Lion)

such as a prolonged period without rain, that waterbodies may drop below the minimum flows and levels in the MEP, however in those circumstances would you still require Permitted Activity takes to cease when the majority are for life-sustaining purposes (human and animal)? Obviously there are some activities, such as calibrating a meter or perhaps road construction, which could be limited if extreme water short conditions exist, however it is likely that education and information would be a better approach to managing that situation should it arise. Ultimately water short directions (RMA s329) could be used if required in extreme circumstances to limit water taken under Permitted Activity provisions.

146. The Fish and Game submission (509.204) seeks a new standard to apply to all activities involving the diversion or discharge of water to ensure that the diversion or discharge does not result in the lowering of water levels in any wetland in order to protect scarce wetland resources and avoid adverse effects on wetlands.
147. Peter Hamill has provided an expert assessment of this submission and advises that the relief sought would provide more certainty for the retention of water levels in wetlands as diversions further than 8m from the wetland can dramatically impact on water levels, however if an additional standard is applied, that it should be worded around the altering of water levels rather than lowering of water levels as flooding a wetland with the diversion of a stream could have an equally devastating impact on the wetland as lowering the water level could. From a planning perspective I have looked at what Permitted Activities involve the diversion and discharge of water, and on this basis I would seek further information from the submitter regarding whether they do actually intend for this restriction to apply to all of them. Seven of the nine relevant activities involving diversions and discharges are for in-stream protection, purging water supply infrastructure/emergencies and flood hazard management purposes, so it would be illogical or inappropriate to apply a standard of this nature to those rules. One rule is specifically enabling the lowering of water levels in wetland, so the standard could not be applied to that provision, and the final relevant rule is for non-consumptive and the nature of the existing standards for that provision seem to be sufficient to protect Significant Wetlands. I do note that the submission relates to all wetlands and the MEP only manages impacts on Significant Wetlands.
148. The NZDF submission (992.036) seeks an amendment to the wording and structure of the Volume 2 provisions to clearly separate the groundwater and surface water provisions as the rules do not provide for groundwater and surface water separately, but together as freshwater, making these rules very difficult to use.
149. It is not clear why the rules are difficult to use in this regard. Water in the MEP is allocated and managed in terms of FMUs, which can include surface water and groundwater, so it would be inappropriate to separate these in the manner described. Where there are activities that are specific to a certain type of water, e.g. surface water, this is referenced in the provision. Without further information regarding the difficulties the rules as drafted pose for the submitter I cannot comment further, and I am not of the view that any amendments are necessary.
150. In a separate submission (992.037) the NZDF seeks the insertion of an explanatory note or introduction, and guidance on the rules, or the insertion of an additional Appendix which explains these provisions as they are of a view that they are hard to understand in relation to allocating water from aquifers.
151. Again, there is insufficient information in the submission to understand the issues the submitter is having, although perhaps the reference to allocations from aquifers, rather than FMUs is a clue. In my view, when looked as a suite of provisions from Volume 1 through to Volume 4, further notes, guidance or appendices are not necessary. However, should the submitter provide more specific details in evidence I can reassess if some additional guidance may be appropriate.

### **Recommendation**

152. It is recommended that Heading 2.1 is retained as notified.

#### **Rule 2.1.1**

153. Rule 2.1.1 reads as follows –

*“Environmental flows and levels, as specified in Appendix 6, control the quantity, level, and flow of water.”*

154. There are 14 submissions<sup>7</sup> that support Rule 2.1.1 and seek its retention as notified.

155. The Federated Farmers submissions (425.434 and 425.435) seek the deletion of Rule 2.1.1 as, in its view, it provides added confusion to the Chapter. The RMA requires the Council to set allocation limits in the Plan by way of rules, therefore this Rule is required to link to the environmental limits in Appendix 6.

### **Recommendation**

156. It is recommended that Rule 2.1.1 is retained as notified.

#### **Standard 2.1.1.2**

157. Standard 2.1.1.2 reads as follows –

*“The environmental flows and levels, as specified in Appendix 6, do not apply to a take, use, damming or diversion of water required by Rule 2.4.1, as it relates to not meeting the applicable Standards of a Permitted Activity in 2.2.”*

158. The NZDF (992.039) and NZTA (1002.109) submissions seek an amendment to Standard 2.1.1.2 the change the reference to “2.4.1” to “2.5.1”. The notified reference 2.4.1 is incorrect and it should have read 2.5.1, therefore I support the submission point and recommend this change is accepted.

### **Recommendation**

159. It is recommended that Standard 2.1.1.2 is amended as follows to correct a typographical cross-referencing error –

*“The environmental flows and levels, as specified in Appendix 6, do not apply to a take, use, damming or diversion of water required by Rule ~~2.4.1~~ 2.5.1, as it relates to not meeting the applicable Standards of a Permitted Activity in 2.2.”*

### **Appendix 6**

160. Appendix 6 is titled “*Environmental Flows and Levels*” and includes five schedules, which will be considered elsewhere in this report. The following submissions are those made on Appendix 6 as a whole, rather than on any of the schedules or their contents in particular.

161. There are eight submissions<sup>8</sup> that support Appendix 6 and seek its retention as notified.

162. The Pernod Ricard submission (1039.136) does not seek any relief but states that given the lack of information provided, it is necessary for it to reserve its position on Appendix 6. The

<sup>7</sup> 431.048 (Wine Marlborough), 454.046 (K Loe), 457.048 (Accolade), 462.010 (BRIL), 473.034 (Delegat Limited), 484.052 (Clintondale), 548.091 (AWUG), 712.089 (Flaxbourne Settlers Association), 776.028 (Indevin Estates Limited), 909.039 (Longfield Farm Limited), 970.014 (Middlehurst Station Limited), 1124.050 (S MacKenzie), 1218.039 (Villa Maria) and 1237.011 (Willowgrove Dairies Limited)

<sup>8</sup> 431.069 (Wine Marlborough), 910.003 (LW Irrigation), 457.069 (Accolade), 462.027 (BRIL), 473.053 (Delegat Limited), 776.042 (Indevin Estates Limited), 1124.062 (S MacKenzie) and 1237.006 (Willowgrove Dairies Limited)

submitter considers that Appendix 6 may be unduly conservative, and not adequately justified in the Council's section 32 report, for the reasons set out elsewhere in this schedule and the main text of this submission. Due to the lack of relief sought, an assessment and recommendation for this submission point is not possible. There is also insufficient information in this submission for me to make any comments, as the submitter has provided no details of which limits within Appendix 6 it has concerns about.

163. The Horticulture NZ submission (769.136) seeks the removal of Appendix 6 and the develop environmental flows and levels and develop for each catchment through a robust consultation process to identify all values for a waterbody, and then set objectives and flows. The submitter states that, in the interim, the Council should continue to use and apply existing environmental flows and levels for each catchment. In the submitters view, the MEP acknowledges that there is currently a lack of knowledge for setting such flows, and that these will be developed through plan changes but in the meantime the Appendix has set flow regimes which are very restrictive.
164. I am not clear how the submitter has formed this view as, in terms of water quantity limits, the Council has been very clear that it is able to set all environmental limits and implement the NPSFM, with the exception of only one management limit for part of one FMU. Under the circumstances it would be inappropriate, and potentially have environmental consequences, if the relief sought was accepted. It would also mean the Council was deficient in meeting its obligations under the NPSFM.
165. The Ngāti Kuia submission (501.084) does not seek any relief for which an assessment or recommendation can be made. The submitter is of the view that iwi have not been consulted in assessing the total allocations and low flows of waterways which goes against protecting Mauri. Ngāti Kuia states that the low flows are too low, and in association with the assisted transfer of water proposed in the Plan, will be significantly more likely to result in ecological collapse of key waterways and Marlborough will experience significant adverse effects of harsh drought.
166. I do not agree that the Council has not consulted with iwi on the environmental limits, however I acknowledge that from their perspective Ngāi Kuia views this as the case. The submitter has provided no information to support their view that the flow limits set are not sufficient to protect ecological values. The enhanced transfer regime will not cause the collapse of waterways as any permits within that scheme will have the relevant management flows applied just like any other water permit.
167. The I Woolley submission (196.001) does not seek any relief for which an assessment or recommendation can be made. The content of the submission is insufficient to enable any further comment.

### ***Recommendation***

168. It is recommended that Appendix 6 is retained as notified relative to the general submissions on the Appendix, and noting that this does not necessarily apply to the Schedules within Appendix 6, which are considered elsewhere in this report.

## **Natural and Human Use Values**

This group of policies are linked to Issue 5B and Objective 5.2 under the topic “Natural and Human Use Values” and include Policies 5.2.1, 5.2.2 and 5.2.3, and Rules 2.6.4 and 2.6.5.

### **Policy 5.2.1**

169. Policy 5.2.1 reads as follows –

*“Maintain or enhance the natural and human use values supported by freshwater bodies.”*

170. There are three submissions<sup>9</sup> that support Policy 5.2.1 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these three submissions in Appendix 1 are recorded as accepted in part.
171. The Federated Farmers submission (425.031) seeks an amendment to the Policy to include the requirement for a review of the natural and human use values through the collaborative catchment limit setting process.
172. The review of the water quantity provisions in the MEP was extensive and involved significant consultation with the community, followed by the first schedule process. It needs to be kept in mind that the starting point was the content of two Plans that had been in place for around 20 years, and informal practices and regimes outside of the Plans that had also been operating for some time. The Council through these mechanisms has been protecting natural and human use values for a substantial period and it was quite unnecessary in implementing the NPSFM to put all of that aside for a collaborative catchment-by-catchment limit setting process. This contrasts with the implementation of the water quality provisions of the NPSFM where cumulative contaminant limits have not been previously part of the planning documents, so a catchment-by-catchment process would be entirely appropriate.
173. The Federated Farmers submission also discusses the reference in this Policy to Appendix 5, where the natural and human use values supported by waterbodies are identified, and it is of a view that there is no recognition of the values of water for primary production and other values that would be expected, including irrigation, industrial and commercial. The suite of provisions under Issue 5B do not seek to retain sufficient flows and levels for all values that may be held for a waterbody, so it is appropriate that Appendix 5 is focused on those values for which environmental flows and levels are set to protect. Water has value for other reasons but it is not appropriate to set limits to protect all values in the same way. What would the minimum flows and levels be if primary production, irrigation, industrial and commercial values were to be protected in the same way as natural and human use values, such as cultural, spiritual, recreational, ecological, landscape, natural character and values of a life-sustaining nature. The Irrigation NZ submission (778.012) similarly seeks the addition of socio-economic human use values to Appendix 5, and the Horticulture NZ submission (769.013) seeks to add food production (and similar values) to Appendix 5 and remove references to natural and human use in Policy 5.2.1. As these submissions are in the same vein, the response to Federated Farmers submission also applies to Irrigation NZ’s submission point, and the discussion in response to Horticulture NZ’s submission on Issue 5B is similarly relevant.
174. The Fonterra submission (1251.002) is very similar to its submission on Objective 5.2, and the submissions of Federated Farmers above and others above, therefore I have not repeated the same assessment here.
175. I appreciate that when looked at in isolation, Appendix 5 as a list of values may seem deficient, and it is fully acknowledged that water holds value for other activities such as primary production, and this would be a “human use value”, however in the context of the MEP provisions when considered in their entirety and in the appropriate context, the phrase “*human use value*” does not, and should not, include all values held for water. I have considered whether there is a better term that could be used to differentiate between the human use values covered in these provisions, and the ones not, however aside from the phrase becoming a long list of types of values that does not greatly assist, I have not settled on any alternative to offer that is an improvement on the existing text.

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<sup>9</sup> 479.010 (DOC), 548.012 (AWUG) and 715.013 (Forest and Bird)

176. The Fish and Game submission (509.032) and the EDS submission (698.012) seek retention of the Policy with amendments that clarify the natural and human use values of FMUs and the relationship between FMUs and water resource units (WRUs). The submitters are of the view that it is not clear where the natural and human use values of the FMUs are identified as the values identified in Appendix 5 relate to WRUs and not the FMUs in Appendix 6.
177. The natural and human use values are broken down into waterbodies rather than FMUs as the enables finer detail in defining values but also because Appendix 5 serves more than one purpose. Appendix 5 also relates to water quality, and as the cumulative limit setting process (and the associated FMU identification) has not yet occurred, the waterbodies are termed WRUs in the Appendix. If the Panel was concerned about this matter, Appendix 5 could be duplicated to create an Appendix specific only to water quantity with each of the WRUs being aggregated to the degree necessary to fit the FMUs defined in the MEP FMU Overlay Maps. This would not change the content of the MEP, only the way in which is presented so I am not certain it is necessary. Fish and Game lodged a similar submission (509.058) on Policy 5.3.1, which would garnish the same response.
178. The Fulton Hogan Limited submission (717.019) seeks that any reference to Appendix 5 in Policy 5.2.1 is removed and instead describe generally what natural and human use values associated with freshwater may be, and that this could be achieved through definitions. The submitter is concerned that the Policy relies on Appendix 5, and by having an exclusive list, values not listed or anticipated may be excluded, providing a barrier to either protecting or making use of these values.
179. I am comfortable that the first paragraph under Issue 5B gives an appropriate description of what is meant by natural and human use values, and that the environmental limits to protect the values identified in Appendix 5 are likely to also protect other similar values if they have been missed. This first schedule process also provided the opportunity for values to be added to the Appendix, and future Plan Change processes could do the same if necessary. The link to Appendix 5 also gives plan users greater certainty when seeking resource consents to take, dam or divert water.
180. The Pernod Ricard submission (1039.007) seeks addition of the words "*where practicable*" to the end of the Policy as, while the submitter is generally supportive of this Policy, it considers that it is not always possible.
181. This Policy and its explanation establish purpose and signal action, which involves the setting of environment limits. These limits are defined and specific, and developed to maintain or enhance natural and human values as identified in Appendix 5. If "*where practicable*" is added, what does that do to the actions that give effect to this Policy? We cannot establish a limit that only has to be adhered to only if it is practicable. Without further evidence from the submitter on the effect of the amendment on the water management framework, I cannot support the relief sought.
182. The Trustpower Limited submission (1201.019) seeks the removal of "*or enhance*" from the Policy as it is of the view that the potential requirement for the enhancement of the values in Appendix 5 is not supported, as in this regard it is unclear which values in the Appendix are to be enhanced and in what circumstances, which leads to uncertainty as to the actual outcome sought by the Policy.
183. I am also struggling to justify the enhance aspect of this Policy. Unlike the water quality provisions which reflect the NPSFM and have provisions specifically to address the enhancement of water quality where degraded, there is no obvious impetus in the NPSFM with regards to water quantity to provide for, or address, enhancement of natural and human use values. The policies subsequent to Policy 5.2.1 also do not really support the inclusion of "*or enhance*", particularly Policies 5.2.4 and 5.2.11 which set environmental flows or levels to protect, provide for, prevent and maintain but do not reference any enhancement purpose.

This is reinforced in Policy 5.2.10 where, in the context of a resource consent application, it states “have regard to the importance of flow connection to maintaining natural and human use values...” (my emphasis). At this time, I am of a mind to agree with the relief sought by the submitter and recommend amendment of the Policy.

184. The Ngāi Tahu submission (1189.036) seeks the following amendments to the Policy –

*“Maintain or enhance **where degraded** the natural and human use values supported by freshwater bodies **by:***

- **prohibiting the damming of rivers;**
- **requiring applications to take or divert water to avoid, remedy or mitigate adverse effects;**
- **applying a precautionary approach to resource consents where there will be irreparable adverse effects on natural and human use values.”**

185. The submitter is of the view that “maintain or enhance” may achieve different levels of protection for resources, to that intended by the use of the phrase “safeguard” in Objective 5.2, and Objective B1 of the NPS Freshwater, and the amendments sought are proposed to rectify this and to provide greater clarity in the interpretation of the Policy. I am not entirely clear on the matters raised in this submission but they perhaps highlight the issue identified in the discussion on the Trustpower Limited submission above, that the Policy has no action around it in terms of the “enhance” aspect. I am still inclined to remove this aspect of the Policy as discussed above, however an alternative would be to add to this or other provisions to show how that aspect of the Policy is given effect to. I am not convinced that the bullet point additions to the Policy are the way to do this as they cover matters already dealt with in Policy, and create links that may or may not be appropriate.

### **Recommendation**

186. It is recommended that Policy 5.2.1, and the associated explanation, are amended as follows –

*“~~Maintain or enhance~~ the natural and human use values supported by freshwater bodies.”*

*“The natural and human use values supported by freshwater bodies in Marlborough are varied, reflecting the diversity of water resources highlighted in Policy 5.1.1. The natural and human use values supported by different waterbodies are identified in Appendix 5. Given their intrinsic value and their significance to the community, the policy seeks to retain the natural and human use values. The development of allocation frameworks contained in the provisions of this chapter has taken into account Objective 5.2 and this policy. The environmental limits established through subsequent policies are intended to retain sufficient flow and/or level to maintain ~~or enhance~~ the natural and human use values of specific freshwater bodies. Maintaining ~~or enhancing~~ natural and human use values were also a relevant consideration in determining the circumstances under which the taking of water could occur without resource consent. Some proposals to take, dam or divert water can involve site specific adverse effects on natural and human use values. This policy allows those potential adverse effects to be considered in the determination any application for resource consent to take, dam or divert water.”*

### Policy 5.2.2

187. Policy 5.2.2 reads as follows –

*“Give priority to protecting the mauri of freshwater and freshwater flows/levels.”*



188. There are five submissions<sup>10</sup> that support Policy 5.2.2 and seek its retention as notified.
189. The Ngāti Kuia submission (501.004) does not specify a relief sought for which an assessment or recommendation can be made, however states that iwi have not been consulted on the setting of flows and levels as set out in Volume 3 - Appendix 6 and they therefore must oppose the limits set as being insufficient in maintaining mauri. As previously stated, I do not agree that the Council has not consulted with iwi on the environmental limits, however I acknowledge that from their perspective Ngāi Kuia views this as the case.
190. The Federated Farmers submission (425.032) seeks the removal of this Policy from the Plan as it is of the view that this Policy repeats Policy 5.2.4 and therefore is superfluous. I disagree, Policy 5.2.4 is a Policy specific to the setting of minimum flows in FMUs dominated by rivers, lakes and wetlands. Policy 5.2.2 as much wider application and is not a mere duplication.
191. Potentially, (a) in Policy 5.2.4 is a duplication of Policy 5.2.2 and could be removed if the Panel was concerned about the possible repetition. I also note that the text of (a) is not in Policy 5.2.11, which is the aquifer based equivalent to Policy 5.2.4. So, if (a) was retained in Policy 5.2.4, and there was scope, for completeness it may be appropriate to add the text of (a) to Policy 5.2.11 also.
192. The Trustpower Limited submission (1201.020) also seeks the removal of this Policy from the Plan as it is of the view that it conflicts with Objective 5.2 and Policy 5.2.1, which both provide for the safe-guarding and maintenance of a range of natural and human use values. They also state it is unclear what the protection of mauri is to be given priority over.
193. I am not clear from the submission why this Policy is in conflict with Objective 5.2 and Policy 5.2.1, as both those provisions centre around natural and human use values, which include cultural values. Policy 5.2.2 states that protection of the mauri of freshwater and flows/levels should be prioritised, submitters may have an issue with the prioritisation itself, however I do not see how this is a conflict as it merely directs that one particular value should be prioritised. I acknowledge that I have simplified the concept of mauri here to facilitate my assessment of this particular submission point.
194. The Irrigation NZ submission (778.013) seeks an amendment of the Policy as follows –  
*“~~Give priority to protecting~~ **Have regard to** mauri of freshwater and freshwater flows/levels.”*
- The submitter is of the view that it is important the mauri of freshwater is recognised as a value, however it should not be given a blanket priority over other recognised values. This Policy reflects and recognises the views of Te Tau Ihu iwi through the MEP review process, the submitters differing opinion is recognised, however I am not persuaded by the submission to support the relief sought.
195. The Pernod Ricard submission (1039.008) seeks that the Policy is clarified to show the extent to which these values are prioritised, and that they are not to be protected at all costs as it is of the view that this Policy is ambiguous and needs clarification, given it sits at RPS level and must be 'given effect to'. As an example, the submitter says it is not clear how this Policy is to be reconciled with Objective 4.1.
196. This Policy is about ensuring there are sufficient minimum flows and levels to protect the mauri of waterbodies and not reduce flows such that the ability of each iwi to support traditional uses and values is compromised. As stated in the explanation, regard was had to this when establishing the allocation frameworks and Permitted Activities in the Plan, i.e. the environmental flows and levels established through the relevant policies and rules, and in Appendix 6, give effect this Policy. With regards to the example given by the submitter, in my view, this Policy sits well with Objective 4.1 as that provision references having thriving

<sup>10</sup> 479.011 (DOC), 509.033 (Fish and Game), 548.013 (AWUG), 715.014 (Forest and Bird) and 1189.037 (Ngāi Tahu)

sectors whilst ensuring the sustainability of natural resource. Protecting mauri also is about ensuring the sustainability of natural resource, particularly for future generations.

### **Recommendation**

197. It is recommended that Policy 5.2.2, and the associated explanation, are retained as notified.

### **Policy 5.2.3**

198. Policy 5.2.3 reads as follows –

*“Protect the significant values of specifically identified freshwater bodies by classifying the taking, damming or diversion of water in these waterbodies as a prohibited activity.”*

199. There are four submissions<sup>11</sup> that support Policy 5.2.3 and seek its retention as notified.

200. The Ngāti Toa submissions (166.024 and 166.064) seek that Policy 5.2.3 include cultural values. In the submitter’s view it is good to have a dedicated iwi chapter, however the issues should also be visible throughout the whole document. In my view, cultural values are appropriately included in this suite of provisions, particularly Policy 5.2.2, and a direct reference to them in this particular Policy would only be appropriate if there was an associated Prohibited Activity specific to protecting the significant values of tangata whenua.

201. The Ngāi Tahu submission (1189.038) seeks that Policy 5.2.3 be amended to say “....**outstanding waterbodies**....”, as they are of the view that the amendment would provide a clear relationship with Objective B4 of the NPS – Freshwater. I do not support the amendment sought as it would provide for a relationship that does not exist. Relative to the NPSFM the Council has not identified “*outstanding waterbodies*” in the MEP, therefore it would be inappropriate to make this link.

202. The EDS submission (698.013) seeks clarity as to which freshwater bodies this Policy applies as it is of the view this is lacking. The explanation to the Policy states that the provision will be reflected in the Prohibited Activity rules, therefore a look at the relevant rules (2.6.4 and 2.6.5) will clarify exactly which freshwater bodies this Policy applies to.

203. The Fish and Game submission (509.034) seeks that Policy 5.2.3 is retained but amended to ensure that take, use, damming or diversion of water is prohibited from all waterbodies identified as having at least high natural character. The submitter notes that not all WRUs that have been identified as having high natural character have been included in the Prohibited Activity Rules and, in its view, consistency and clarification is required.

204. It is my understanding that the WRUs as labelled may not correlate with the waterbodies as identified in the relevant natural character reports, i.e. a river may be identified as having high but it may not be obvious that it is included given the name of the WRU. Subject to the submitter providing information about the features they consider to be absent, I do not recommend any changes as a result of this submission at time.

205. The Dairy NZ submission (676.019) seeks that activity status of the rules the implement Policy 5.2.3 is changed from Prohibited to non-complying, as it is of the view that the Plan should not close the door on the taking, damming or diversion of water where an application can demonstrate that the effects (including cumulative effects) will be minor.

206. The review process has determined that any taking, using, damming or diverting of water from the waterbodies in Rules 2.6.4 and 2.6.5 could not be done while maintaining the natural and human use values of those waterbodies, there is no information in the submission to demonstrate that this is not the case. For reasons already traversed throughout the hearing process, the Council has taken an approach in the MEP of not having

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<sup>11</sup> 479.012 (DOC), 548.014 (AWUG), 715.015 (Forest and Bird) and 778.014 (Irrigation NZ)

non-complying activities in the Plan, therefore should the Panel be of a mind to accept the relief sought, it would be consistent with this approach to change the status from Prohibited to Discretionary. It is noted however, that this would effectively make the Rules and Policy 5.2.3 somewhat redundant as the taking, using, damming or diverting of water from these waterbodies would be a Discretionary Activity under Rules 2.5.2 to 2.5.5 anyway.

207. The Federated Farmers submission (425.033) seeks the removal of Policy 5.2.3 from the Plan as it is of the view that the Policy is unclear and uncertain, and it is not stated within the Policy what is meant by significant values, or which specifically identified freshwater bodies the Policy is referring to. Federated Farmers further submits that use of a Discretionary or Non-Complying status would be more appropriate, so that resource users have the opportunity to apply for a resource consent where there may be an effect on significant values.
208. The change of status issue has been discussed above in relation to the Dairy NZ submission, and the identification of waterbodies issue has been discussed above in relation to the EDS submission. Regarding what is meant by significant values, the explanation assists with this understanding, as does Appendix 5 and the indigenous biodiversity provisions with regards to the Significant Wetlands within Rule 2.6.4.
209. The Trustpower Limited submission (1201.021) seeks that the Policy is amended to add an exception as follows – *“while recognising and providing for existing lawfully established activities and infrastructure.”* The submitter is concerned with the regulatory approach of using a Prohibited Activity status for water use within certain water bodies and, while an exception is provided for existing consented activities, it is not clear what activity status they will hold on expiry of the consent.
210. The exception in the Rules is not for existing consented activities, it is for activities lawfully established before 9 June 2016. If an existing water permit is replaced with a new water permit on expiry, the Rules would still not apply as the activity was still lawfully established before the required date. In my view, the amendment is not necessary.
211. The NZTA submission (1002.016) seeks that the Policy is amended to add an exception as follows – *“except when necessary for the construction, maintenance or upgrade of lawfully established regionally significant infrastructure.”* The submitter states that it may be required to carry out works in the vicinity of, or within, the high value freshwater bodies specifically identified in this Policy and in some instances these works will be necessary for maintaining or repairing key parts of the State Highway network. Submission points 1002.119 and 1002.138 request changes to Rules 2.6.4 and 2.11.2 (riverbed activity hearing topic) to exempt certain works for regionally significant infrastructure from the Prohibited Activity status, and this should be reflected in this Policy.
212. The provisions provide for activities lawfully established prior to the notification of the Plan, and anticipates that new activities should seek an alternative so as to not take, use, dam or divert water from these waterbodies. This is necessary to protect the significant values that they hold, and there is no information in the submission to demonstrate that these values will still be protected if the exception is provided for, the inference is that submitters activities simply trump these values. Having said that, I did find merit in some of the relief sought in submission point 1002.119, and have recommended changes accordingly. However, I do not think that amendment specific to the Branch River, necessitates the broader amendment of this Policy.

### **Recommendation**

213. It is recommended that Policy 5.2.3, and the associated explanation, are retained as notified.

### **Rule 2.6.4**

214. Prohibited Activity Rule 2.6.4, which implements Policy 5.2.3, reads as follows –

*“Take, use, damming or diversion of water from the following waterbodies, including their tributaries:*

- (a) Acheron River;*
- (b) Branch River (including downstream of weir to the Wairau River confluence);*
- (c) Chaytor Significant Wetlands - W127, W128 and W129;*
- (d) Goulter River;*
- (e) Goulter Significant Wetland - W35;*
- (f) Kauauroa Bay Significant Wetland - W1026;*
- (g) Lake Alexander;*
- (h) Lake Chalice;*
- (i) Lake McRae;*
- (j) Pelorus River upstream of confluence with the Scott Creek;*
- (k) Pipitea Significant Wetland - W55;*
- (l) Possum Swamp Stream Significant Wetland - W116;*
- (m) Rainbow River;*
- (n) Tarnedale Lakes including Bowscale Lake, Fish Lake, Lake Sedgemere and Island Lake;*
- (o) Upper Wairau Significant Wetland - W580;*
- (p) Wairau Lagoons Significant Wetland - W1076;*
- (q) Wairau River upstream of the Hamilton River confluence.*

*This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, including the take and use of water for an individual’s reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual’s animals.”*

215. There are five submissions<sup>12</sup> that support Rule 2.6.4 and seek its retention as notified. On the basis that I have recommended an amendment to the Rule as a consequence of another submission (FENZ 993.019), the recommendation for these five submissions in Appendix 1 are recorded as accepted in part.
216. The D Barker submissions (317.002 and 317.003) seek the prohibition of further instream dams in the Lake Elterwater catchment to allow freshwater within its system to maintain the existence of the Lake. The submitter notes that protection for the Lake Elterwater freshwater system does not exist in the MEP, however the WARMP (27.1.2.5) prohibited the abstraction from the Lake's freshwater system. The submitter is of the view that Lake Elterwater is a large, diverse and dynamic, outstanding natural feature worthy of better protection, which is fragile and vulnerable because of its dependence on rainfall runoff from the surrounding hill country in a relatively dry area.
217. The D Barker submissions have received further submissions from the Taimate Partnership and G Mehlhopt, who oppose the relief sought and hold the view that prohibition of further instream dams does not allow for the protection for the Lake environment as the flora and fauna critical to the Lake ecosystem survive in these waterbodies in times of drought and are key to the Lake revitalisation upon catchment flooding and replenishment. Further, the prohibition of dams does not allow for the possibility to mitigate any potential effects, and therefore case-by-case assessment through the resource consent process is considered more appropriate in determining the development of dams for domestic, stock and irrigation development in the catchment.
218. Peter Hamill has considered this submission, and the further submissions, and agrees with the submitter that Lake Elterwater is a very significant waterbody with high values, and that it is a fragile system. Being an intermittent wetland, the length of time that it is dry is very

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<sup>12</sup> 455.032 (J Hickman), 456.032 (G Mehlhopt), 479.161 (DOC), 496.073 (Forest and Bird) and 1089.019 (Rarangi Residents)

important to the ecological functioning of the wetland. The longer it is dry the less opportunity the wetland has to recover. Every new bit of water that is held behind a dam means that the wetland will be drier than it would naturally. However, the difficulty with prohibition is that it would exclude new dams like J Hickman's that, while it captures water behind the dam, it releases the equivalent (and possibly more) back from the dam. Peter is inclined towards leaving the damming of Lake Elterwater (including tributaries) as a Discretionary Activity, as this would be a much better option because allows for innovative solutions while still protecting the wetland values.

219. Val Wadsworth has also concerned these submissions and further submissions and acknowledges that this is mainly an ecological issue. However, his understanding is that the main issue is that the Lake levels, and range, stay as is, i.e. no lowering of outlet, or storage top ups, both of which would damage the established marginal vegetation. Val does not necessarily agree with opposing further submitters that damming would not have an effect on the Lake. If sufficient dams were put in place, they could starve the lake of all incoming water. High evaporation in this area means that seasonal top up is required. Protection at the moment is only by the 5,000m<sup>3</sup> standard in Rule 2.3.16 (although there is no limit on the number of 5,000m<sup>3</sup> dams on a property) but there is no real guidance on any resource consent application for bigger dams on major tributaries of the catchment. However, prohibition is a major step and there may be alternatives. It is noted that since the earthquake the Lake has more storage, and therefore should have more resilience to drying up.
220. Based on the content of the submissions, further submissions and Messrs Hamill and Wadsworth's advice, I am not inclined to make a recommendation at this time. I will reconsider my assessment and making a recommendation after hearing the evidence from all of the submitters and further submitters.
221. The Fish and Game submission (509.259) and the Environment Centre submission (1193.125) also seek the reinstatement/addition of the Prohibited Activity rule in relation to the taking of water from Lake Elterwater, although they provide no reasons behind the relief sought. The response in relation to the D Barker submissions above applies to this point also.
222. The Environment Centre submission (1193.124) seeks the addition of the Rarangi Wetlands to the Rule, as they are of the view that the value of the Rarangi beach ridge system and wetland complex has been established through a report by J Preece (2010), and that the wetlands significance increases as other wetland areas have been lost in Marlborough and vineyard expansion continues.
223. Peter Hamill has assessed this submission point and, he is in general agreement with the submission that Rarangi beach ridge system and wetland complex do have high values, and is of the view that if the specific Significant Wetlands south of the Wairau Diversion, identified on Zoning Maps 150 and 160 as W128, W129, W130, W131 and W139, were to be included Rule 2.6.4, it would go part way to protect the values of the Rarangi wetland complex as requested by the Environment Centre. The specific recommended changes to Rule 2.6.4 are under the recommendations heading below.
224. The FENZ submission (993.019) seeks an addition to the end of the Rule as follows –
- "This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, including the take and use of water for an individual's reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual's animals and the take, use and damming of water for firefighting purposes permitted by Rule 2.2.8."*

The submitter is of the view that the Rule is inconsistent with the priority given to the taking of water for firefighting purposes in s14(3)(e) of the RMA.

225. To some degree the relief sought is reasonable, however in my view, it should be limited to the take and use of water as this is appropriate and consistent with s14(3)(e) and Rule 2.2.8, neither of which provide for damming for this purpose. As this would be providing for new abstractions rather than providing an exemption for existing ones, It is recommended slightly different wording to that sought, and suggest the following –
- “This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, including the take and use of water for an individual’s reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual’s animals. **This rule does not apply to a take and use of water for firefighting purposes as permitted by Rule 2.2.8.**”*
226. The NZTA submission (1002.119) seeks that the Policy is amended to add an exception as follows – *“Take, use, damming or diversion of water from the following waterbodies, including their tributaries: .....This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, **or to take, use, and diversion associated with construction, maintenance and upgrade of regionally significant infrastructure,** including the take and use of water for an individual’s reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual’s animals.”*
227. The submitter is concerned that as a consequence of this Rule it would be unable to take, use or divert water for the maintenance of two existing bridges – the State Highway 63 bridge over the Branch River and the State Highway 6 bridge over the Pelorus River. NZTA is seeking that these activities have Discretionary status.
228. The State Highway 6 bridge over the Pelorus River would not be captured by Rule 2.6.4 as it only applies to the river upstream of the confluence with Scott Creek, which is more than 10km upstream of the bridge. With regards to the State Highway 63 bridge over the Branch River, in my view, this Rule would not have been intended to prevent NZTA from doing maintenance on this existing infrastructure, therefore it is recommended an exception be applied in this regard. Under the existing framework this activity would then default to Discretionary, so no other changes are required. In partially accepting the relief sought, I suggest the following amendment to the Rule –
- “This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, including the take and use of water for an individual’s reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual’s animals. **(b) of this Rule does not apply to a take, use or diversion of water associated with the maintenance or upgrade of the State Highway 63 road bridge over the Branch River.**”*
229. The NZTA submission also sought clarification as to why diversions of the Branch River are prohibited by Rule 2.6.4 but minimum flows for diversions of the Branch River are given in Schedule 4 of Appendix 6. This is because Rule 2.6.4 only applies to new diversions and there is an existing diversion for which environmental flows are applicable.
230. The Trustpower Limited submission (1201.117) seeks that the Policy is amended to add an exception as follows – *“This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, **and those activities will be considered under Rules 2.4.2, 2.5.2, 2.5.3, 2.5.4, 2.5.5.** ~~including the~~ **The take and use of water for an individual’s reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual’s animals will be considered under Rules 2.2.1, 2.2.2, and 2.2.4.**”*
231. The submitter is of the view that, while it is understood that Rule 2.6.4 is intended to address the take, use, damming and diversion of water from the Branch River for ‘new’ activities, it is not explicitly clear within the Rule as to how those activities that are already lawfully established will be classified with upon consent expiry, and consent holders need clarity and certainty around how their existing consents and activities will be considered in the future.

232. The exception in the Rules is for activities lawfully established before 9 June 2016, so if an existing water permit is replaced with a new water permit on expiry, the Rules would still not apply as the activity of taking, using, damming or diverting the water was still lawfully established before the required date. In my view, the amendment is not necessary. The amendment with regards to the domestic and stock water takes is inappropriate as it changes the effect of the Rule. The existing Rule enables domestic and stock takes that were established prior to 9 June 2016 to continue, however the amendment sought enables all domestic and stock takes (existing and new) to be exempt from the Rule, which is not intended and a change for which the submitter has not provided justification.

### **Recommendation**

233. It is recommended that Rule 2.6.4 is amended as follows –

*“Take, use, damming or diversion of water from the following waterbodies, including their tributaries: .....*

**(r) Rarangi Wetland Complex – Significant Wetlands W128, W129, W130, W131 and W139.**

*This rule does not apply to a take, use, damming or diversion of water lawfully established prior to 9 June 2016, including the take and use of water for an individual’s reasonable domestic needs and the take and use of water for the reasonable drinking water needs of an individual’s animals. **This rule does not apply to a take and use of water for firefighting purposes as permitted by Rule 2.2.8 and (b) of this Rule does not apply to a take, use or diversion of water associated with the maintenance or upgrade of the State Highway 63 road bridge over the Branch River.**”*

234. The waterbodies in Rule 2.6.4 are listed alphabetically so ideally the recommended addition (r) above would go immediately after (m) in the notified Rule (and subsequent waterbodies would move down a place in the alphabet), however this is not fundamental to the meaning of the Rule.

### **Rule 2.6.5**

235. Prohibited Activity Rule 2.6.5, which implements Policy 5.2.3, reads as follows –

*“Damming of water in the following waterbodies, including their tributaries:*

*(a) Awatere River above Medway River (excluding tributaries not specified in this rule);*

*(b) Clarence River;*

*(c) Grey River;*

*(d) Hodder River;*

*(e) Waimea River above Box Stream;*

*(f) Winterborne River.*

*This rule does not apply to a damming of water lawfully established prior to 9 June 2016.”*

236. There are three submissions<sup>13</sup> that support Rule 2.6.5 and seek its retention as notified.

237. The Fish and Game submission (509.260) seeks the addition of the Kaituna and Rai Rivers, and their tributaries, to the Rule to ensure that damming of water is a Prohibited Activity in these waterways.

238. The submitter has provided no reasons for the relief sought, and to change an activity to Prohibited is a significant change, which in my view, needs substantiation. Peter Hamill has considered this submission and has the following advice – the difficulty with prohibition is that

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<sup>13</sup> 455.033 (J Hickman), 456.033 (G Mehlhopt) and 479.162 (DOC),

it would exclude dams that, while they capture water behind the dam, they release the equivalent (and possibly more) back from the dam instantaneously or at a later date, so having damming in these catchments as a Discretionary Activity would be a much better option as it would allow for innovative solutions while still protecting the wetland values. Val Wadsworth has also considered this submission and notes that to date dams have not really been developed in the Kaituna and Rai Rivers, probably because of higher rainfall area, difficult catchments to construct dams, and lower returns from farming types in this region.

239. The Ngāi Tahu submission (1189.115) seeks the addition of the Awatere River (full extent) to the Rule as the river holds particular significance for Ngāti Kurī and the Kaikōura IMP states that the river has historically been a major resource and travel route for Ngāi Tahu. Continuous and healthy flow of the river ki uta ki tai is a specific point raised in the IMP. No further submissions were received in opposition to the relief sought, although there are submissions seeking the retention of all Prohibited Activity rules as notified.
240. Peter Hamill has considered this submission and his recollection is that the provisions were designed to apply above the Medway River, to only to allow for the construction of dams for the supply of irrigation water in times of low flows downstream of this point, and to protect the instream and water supply values above that point. If the Plan excludes all of the tributaries it will mean that no additional dams will be able to be built in ephemeral gullies in the Awatere catchment, which will limit growth, and also mean that innovative ideas will not be able to be exploited. Val Wadsworth has also assessed this submission and has no firm opinion on the benefits or otherwise of dams, although notes that the original Awatere Irrigation scheme proposed a dam on Castle River, a tributary of the Upper Awatere and it is possible that similar proposals may be developed in the future.
241. Based on the content of the submissions and further submissions lodged, I support the relief sought, however I anticipate further evidence on this matter to be presented at the hearing similar in nature to Peter Hamill's comments, and this may affect my final recommendation, if one is made. At this time, it is recommended that Rule 2.6.5 is amended as follows to reflect the relief sought, noting that the deletion of (c), (d) and (f) are consequential as they will all now be caught by (a) –

*“Damming of water in the following waterbodies, including their tributaries:*

*(a) Awatere River ~~above Medway River (excluding tributaries not specified in this rule);~~*

*(b) Clarence River;*

*(c) Grey River;*

*(d) Hodder River;*

*(e) Waimea River above Box Stream;*

*(f) Winterborne River.*

*This rule does not apply to a damming of water lawfully established prior to 9 June 2016.”*

242. The Ngāi Tahu submission also seeks the inclusion of the dual name for the Clarence River when referred to throughout the Plan as the Waiau-toa (Clarence River) is the pepeha river of Ngāti Kurī. The river holds particular significance for this reason, and also due to the extensive history of occupation and settlement near Waiau-toa, and use of the river as a mahinga kai. While outside the Marlborough Region, the mouth of the Waiau-toa forms the current northern boundary of the Kaikōura Marine Guardians marine management area provided for by legislation. Ki uta ki tai – mountains to sea, it is critical that what flows from the Waiau-toa into the marine management area is of a high quality, and that water flows enable the river to function in accordance with its natural state.
243. I support the relief sought by Ngāi Tahu with regards to the Waiau-toa/Clarence River and recommend that Rule 2.6.5 be amended as follows below, and that any other reference to the Clarence River in the MEP are similarly amended –



*“Damming of water in the following waterbodies, including their tributaries:*

*(a).....*

*(b) **Waiau-toa/Clarence River**;....”*

### **Recommendation**

244. It is recommended that Rule 2.6.5 is amended as follows –

*“Damming of water in the following waterbodies, including their tributaries:*

*(a) Awatere River ~~above Medway River (excluding tributaries not specified in this rule)~~;*

*(b) **Waiau-toa/Clarence River**;*

*~~(c) Grey River;~~*

*~~(d) Hodder River;~~*

*(e) Waimea River above Box Stream;*

*~~(f) Winterborne River.~~*

*This rule does not apply to a damming of water lawfully established prior to 9 June 2016.”*

245. That any other references to the Clarence River in the MEP are similarly amended.

### **Setting of Environmental Limits**

This group of policies are linked to Issue 5B and Objective 5.2 under the topic “Setting of Environmental Limits” and include Policies 5.2.4 to 5.2.12 (inclusive), Appendix 6 (Schedules 3, 4 and 5), Standards 2.3.1.1, 2.3.2.2, 2.3.4.1, 2.3.5.1, 2.3.6.1, 2.3.13.2 and 2.3.14.1.

#### **Policy 5.2.4**

246. Policy 5.2.4 reads as follows –

*“Set specific environmental flows and/or levels for Freshwater Management Units dominated by rivers, lakes and wetlands to:*

*(a) protect the mauri of the waterbody;*

*(b) protect instream habitat and ecology;*

*(c) maintain fish passage and fish spawning grounds;*

*(d) preserve the natural character of the river;*

*(e) maintain water quality;*

*(f) provide for adequate groundwater recharge where the river is physically connected to an aquifer or groundwater; and*

*(g) maintain amenity values.”*

247. There are fifteen submissions<sup>14</sup> that support Policy 5.2.4 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these fifteen submissions in Appendix 1 are recorded as accepted in part.

248. The East Bay Conservation Society submission (100.013) seeks that (e) of the Policy be changed from “*maintain*” to “*improve*”, as they are of the view that, given the degraded state of Marlborough’s fresh water it is not good enough to just maintain the water quality. The improvement of degraded water quality is dealt with specifically in the water quality

<sup>14</sup> 431.004 (Wine Marlborough), 631.004 (Constellation), 359.037 (WilkesRM Limited), 1242.004 (Yealands Estate Limited), 462.046 (BRIL), 473.003 (Delegat Limited), 776.001 (Indevin Estates Limited), 909.004 (Longfield Farm Limited), 970.003 (Middlehurst Station Limited), 1124.028 (S MacKenzie), 1218.004 (Villa Maria), 1237.009 (Willowgrove Dairies Limited), 479.013 (DOC), 548.015 (AWUG) and 715.016 (Forest and Bird)

provisions of the MEP (Chapter 15), this (e) in this Policy is about leaving sufficient flows or levels in river, lake and wetland dominated FMUs to maintain water quality, which in my view, is appropriate.

249. Federated Farmers (425.034), Irrigation NZ (778.015) and Fonterra (1251.003) have lodged similar submissions seeking the addition of another matter to the Policy, along the lines of maintaining reliability of supply for social and economic values/the socio-economic well-being of the local community, as the submitters are concerned that human and use values, including domestic and stock drinking water and primary production have not been adequately taken into account in this Policy and this in turn affects the limits that have been established in the Plan.
250. In my view, the preceding policies are clear enough that domestic and stock water are human use values which are to be maintained through the setting of limits, and as the majority of the regions municipal water supplies are from aquifer dominated FMUs (therefore covered under Policy 5.2.11), Policy 5.2.4 does not need amendment in this regard. In relation to reliability of supply for primary production, that is not the purpose of the limits, the environmental flows and levels, which are developed in giving effect to this Policy will have variable levels of reliability, i.e. Class A water allocations are more reliable than Class B water allocations, however the limits set cannot guarantee reliability of supply for consented activities such as primary production.
251. The Fonterra submission also makes some comments about the reference in the explanation to Policy 5.2.4 to environmental limits including an allocation component and a minimum/flow level component, and appears to have sought its relief in part on the basis of this description relative to the Policy not really relating to allocation limits. It does seem to me that the explanation is a little confusing in this regard as it fails to point out that Policy 5.2.4 is about the minimum/flow level component, and that the allocation limit component is addressed in a other policies, particularly Policy 5.2.13 and 5.3.3. It is recommended that the explanation to Policy 5.2.4 is amended, to provide clarification, as follows –
- “Policy B1 of the NPSFM requires the Council to set environmental flows and/or levels for all FMUs. An environmental flow or level includes an allocation limit and a minimum flow or level. This is a complex task given the diversity in the natural and human use values supported by rivers, lakes and wetlands and the variation in the flow/level required to maintain those values. This policy sets out the matters that have been considered in the process of setting the ~~environmental~~ **minimum** flows/levels established in the MEP. The ~~environmental~~ **minimum** flows/levels are intended to provide sufficient water to sustain the matters identified in (a) to (g).”*
252. The Trustpower Limited submission (1201.030) seeks amendment of the Policy to add the following matter – *“provide for the human use values identified in Appendix 5”*, as it is of the view that it does not seek to maintain the human use values provided for in Policy 5.2.1 and identified in Appendix 5.
253. I disagree with the submitter, the Policy does exactly that. The explanation to Policy 5.2.1 states – *“The environmental limits established through the subsequent policies are intended to retain sufficient flow and/or level to maintain or enhance the natural and human use values for specific waterbodies”* (and the preceding paragraph makes the link to Appendix 5 for the identified values). Policy 5.2.4 is not the only provision that sets environmental limits, for example Policies 5.2.7, 5.2.11, 5.2.12, 5.2.14 set limits, and it would be inefficient to repeat the same relief sought (which is the logical consequence of the submission) on all of these when it is already so clearly set out under Policy 5.2.1.
254. Trustpower Limited lodged a submission (1201.050) on Policy 5.3.3 seeking its removal from the MEP but relating it back to an issue with Policy 5.2.4. Specifically, it points out that the

establishment of environmental flows and/or levels as defined by the NPSFM should include the minimum flows and allocation limits for use. This should be recognised in Policy 5.2.4, given that it uses the definition of environmental flows and/or levels from the NPSFM.

255. The submitter is correct in its description of an environmental flow or level under the NPSFM, and this reflects text in the explanation to Policy 5.2.4. However, in my view, the relief sought (remove Policy 5.3.3) to resolve the matter raised is not the most appropriate response and some minor amendments of the wording of Policy 5.2.4 would resolve the issue, and maintain the intent of all the relevant Policies. Policy 5.2.11 correctly references setting “*minimum levels*”, and Policy 5.2.4 should similarly reference setting “*minimum flows and/or levels*” (rather than environmental flows and/or levels). This matter was raised by Fonterra (1251.003) in regards to the explanation to Policy 5.2.4, and amendments to the explanation are already recommended above as a consequence of this submission. I have provided specific amended wording in the Recommendation section for Policy 5.2.4, I have also noted a consequential amendment to Policy 5.2.5 in the Recommendation section for that provision.
256. The Clontondale submission (484.004) references this Policy and seeks that the environmental flows and levels established by rules that give effect to Policy 5.2.4 specifically impose no greater negative impact upon water availability, allocation and access than the flows and levels currently imposed in the WARMP as to do so would seriously jeopardise the viability of the primary production upon which Marlborough is economically and socially dependent.
257. Many of the management flows and levels in the MEP are unchanged from either the existing Plans or previously informal regimes that have been imposed on water permits. There are some FMUs that have new or different limits, and therefore will not be consistent with the relief sought. The notified limits (unless otherwise recommended for amendment in this report) are appropriate and required for the Council to meet its obligations under the NPSFM.
258. The Horticulture NZ submission (769.014) seeks amendment of the Policy to remove (a) to (g), and set flows and levels based on the freshwater objectives for each FMU which are informed by the values identified for that FMU. The submitter is of the view that the setting of the flows and levels should be to reflect the identified values and freshwater objectives for the FMU, and Policy 5.2.4 essentially overrides that process.
259. I find his submission to be quite confusing but ultimately, I am of the view that the Policy actually does what they are seeking. Policy 5.2.4 sets limits, as the explanation to Policy 5.2.1 says it will, to give effect to Objective 5.2. And this is done, as is explained throughout the provisions, to protect natural and human use values, which are identified in Appendix 5. The only area that is perhaps different is that the submitter seems to suggest that there needs to be a specific Objective for each FMU, which I do not consider to be correct or required by the NPSFM.
260. The Fulton Hogan Limited submission (717.020) seeks amendment of the Policy to apply to surface water generally rather than only to FMUs dominated by surface water, as it is of the view that Policy 5.2.4 requires the protection of certain values when setting environmental limits based on whether the FMU is dominated by rivers, lakes or wetlands. Clause (f) is to provide for adequate groundwater recharge where the river is physically connected to an aquifer or groundwater. This leaves the potential for groundwater within an FMU dominated by surface water that sits outside an area that is physically connected to a river, being subject to a surface water environmental flow or level regime, which may lead to restrictions or management issues being placed on a groundwater take that have no bearing on the avoidance, remedy or mitigation effects. This potentially does not give effect to the NPSFM Freshwater which ties 'over allocation' to NPSFM objectives including Objective B1 which refers to safeguarding values associated with fresh water.

261. The scenario described is correct, in that groundwater abstractions in FMUs dominated by rivers, lakes and wetlands would have the same limits imposed as surface water abstractions in those FMUs. The MEP framework has been purposefully developed that way to give effect to the NPSFM, particularly the requirement for all FMUs to have environmental limits. This is particularly dealt with under Issue 5F, therefore I will not discuss this further here except to reiterate that the text of this Policy is deliberate. As a general comment, outside of the aquifer based FMUs identified in the MEP, it is unlikely that an abstraction of subsurface water would be unconnected to some surface water resource.
262. The Pernod Ricard submission (1039.009) seeks retention of the Policy subject its other concerns being addressed, which seem to be around ensuring that these are set at appropriate levels, groundwater takes that are not hydraulically related to surface water, and water takes for protecting root stock. On the basis I cannot be the judge of whether the provisos on the support for this Policy will be met to the satisfaction of the submitter, I cannot support the submission at this time.
263. The Ngāti Kuia submission (501.003) does not seek any relief for which an assessment or recommendation can be made. The submitter is of the view that iwi have not been consulted on the setting of flows and levels as set out in Volume 3 Appendix 6 and therefore must oppose the limits set as being insufficient in maintaining mauri. I do not agree that the Council has not consulted with iwi on the environmental limits, however I acknowledge that from their perspective Ngāi Kuia views this as the case.
264. The Fish and Game submission (509.035) seeks the following amendments to the Policy –

*“Set specific environmental flows and/or levels for Freshwater Management Units dominated by rivers, lakes and wetlands to:*

- (a) protect the mauri of the waterbody;*
- (b) protect instream habitat and ecology, **including the habitat of trout and salmon;***
- (c) maintain **or enhance** fish passage and fish spawning grounds;*
- (d) preserve the natural character of the river;*
- (e) maintain water quality **and enhance it where this has been degraded;***
- (f) provide for adequate groundwater recharge where the river is physically connected to an aquifer or groundwater; and*
- (g) maintain **or enhance the following values:***
  - *amenity values;*
  - ***recreational values;***
  - ***riparian vegetation; and***
  - ***public access to and along the margins of waterways.***

The submitter is of the view that this Policy moves away from the values approach set in previous Policies 5.2.1 – 5.2.3 and introduces a different set of parameters to set specific environmental flows and levels, and that this increases the disconnect between the values identified in Appendix 5 and the flows/levels in Appendix 6. Further, the list of values to consider and give effect to under Policy 5.2.4 when setting flows, limits, and levels for water quantity and quality does not adequately reflect the requirements of Part II of the Act, and the NPSFM.

265. In my view, that amendment to (b) is unnecessary as the previous provisions make it clear that the minimum flows and levels are to be set to protect the values identified in Appendix 5, which include the values of fish habitat and fishing where applicable. Peter Hamill has also considered this submission and is of the view that the amendment to (b) does not add anything to the provision, as protecting instream habitat and ecology is all-inclusive irrelevant of species.

266. As previously discussed, in my opinion “enhance” should be removed from Policy 5.2.1 as there is no obvious impetus in the NPSFM, with regards to water quantity, to enhance natural and human use values. Policy 5.2.4 as notified includes no references to enhancement, which in my view, supports the recommended amendment to Policy 5.2.1, and given the position I hold on Policy 5.2.1, I do not support the relief sought by Fish and Game. For completeness however, I will assess the specific changes sought further. With regards to (e), this is an inappropriate addition in the context of this suite of provisions as (e) references water quality in relation to the setting of minimum flows and levels, the enhancement of water quality where it is degraded is covered by other provisions (Chapter 15) and was dealt with in the hearing on that topic. The changes to (g) are problematic, the minimum flows and levels are limits set to protect a specific set of identified values – known numbers are established to protect known values. If the limits were to be set to enhance all the values sought by the submitter in (g) what would the limits be? For example, if a minimum flow was to be set to enhance public access to the Pelorus River, what would enhanced public access look like? Would you not need to know to be able to set a limit to protect it? Peter Hamill’s consideration of this aspect of submission reached a similar conclusion, and he adds that he is unsure how you would even go about setting minimum flows to protect riparian vegetation, he is not aware of anyone having done work to determine the relationship between riparian vegetation and river flow.

267. The EDS submission (698.014) seeks the following amendments to the Policy –

*“Set specific environmental flows and/or levels for Freshwater Management Units dominated by rivers, lakes and wetlands to:*

*(a) protect the mauri of the waterbody;*

*(b) protect instream **and riparian** habitat and ecology;*

*(c) maintain **or enhance** fish passage and fish spawning grounds;*

*(d) preserve the natural character of the river;*

*(e) maintain water quality **and enhance it to meet water quality limits**;*

*(f) provide for adequate groundwater recharge where the river is physically connected to an aquifer or groundwater; and*

*(g) maintain **or enhance** amenity values.*

The submitter is of the view that there is a disconnect between the Policy and the values based approach in the NPSFM, and the balance of the MEP.

268. This submission covers similar matters to the Fish and Game submission above and so the assessment has not been repeated, but the outcome is the same in that the relief sought is not supported. Matters raised in the reasons for the submission regarding the connections between these Policies, Appendix 5, FMUs and WRUs have also been addressed already elsewhere. The Friends submission (716.046) is also not dissimilar to others such as Fish and Game and seeks that in all matters, (a) to (g), the text is changed to “*maintain and/or enhance*”, all previous comments on this matter also apply to this submission and therefore the amendments are not supported. Where the Friends submission seeks to also replace references in the Policy to “*protect*” and “*preserve*” with “*maintain and/or enhance*”, this is a divergence from the other submissions, but is nevertheless inappropriate for at least the same reasons.

269. The Ngāi Tahu submission (1189.039) seeks the following amendments to the Policy –

*“Set specific environmental flows and/or levels for Freshwater Management Units dominated by rivers, lakes and wetlands to:*

*(a).....*

- (c) *maintain fish passage and fish spawning grounds, including sufficient velocity to accommodate native fish species;*
- (d) .....
- (h) **enable natural flushes to occur.**"

The submitter is of the view that the amendments they propose will ensure the protection of habitat for mahinga kai species.

270. Peter Hamill has considered the relief sought and, with regards to the addition to (c), he is of the view that the addition does not add anything over and above what provision (b) provides for by protecting instream habitat and ecology as velocity is only one of the factors that influences the suitability of a site for native fish. With regards to the addition of (h), Peter supports this amendment to the Policy as natural flushing and changes in water levels provide ecological function and should be retained in rivers, it is less clear that this would be applicable for lakes and wetlands as flushing flows are not necessarily the best thing, for wetlands in particular.
271. After consideration of the submission and the advice from Peter Hamill, it is recommended that the amendment to (c) is not accepted, however the amendment to add (h) is accepted in part to the extent that it would only apply to rivers. The full text of the amended Policy is under the recommendation heading below. It is noted that Trustpower Limited lodged a further submission in opposition to the relief sought, as it is of the view that the matters are already covered under (b). On that basis, in Trustpower Limited's view the addition of (h) in the recommendations would be a duplication rather than a change of substance.
272. The J and J Hellstrom submission (688.015) seeks a reference to the issue of toxic metals (copper, chromium and arsenic) the leaching into the aquifers, particularly under vineyard posts in this Policy. This is not appropriate relative to this Policy, which references water quality in relation to the setting of minimum flows and levels. Water quality matters such as those raised in the submission were dealt with in the hearing on that topic, and in my view, the specific issue raised by the submitter was raised in other submissions at that time so has been considered.
273. The DOC submission (479.273) is a general submission on Schedule 3 of Appendix 6 but is appropriate to consider at this point. The submission seeks for MDC to undertake instream flow requirement assessments for each FMU to ensure that the minimum flows and levels are set to give effect to Policy 5.2.4, and that the minimum flows will provide for the maintenance or protection of the values listed in this Policy. The submitter is of the view that the minimum flows for allocation of water from the individual FMU's are in most cases a continuation of the flows used to manage the existing abstractions, and many of these flows have not been determined by assessing instream flow requirements to protect or maintain the values listed in Policy 5.2.4.
274. The Council was in the position of reviewing its planning documents, not starting from scratch and developing a first generation plan. Unless there was a reason to consider a change to minimum flows and levels where they already existed, it is true that the same limits were carried over to the MEP. This is appropriate, and this submission does not identify that there are actual any limits that do not provide for the natural and human use values identified. In considering this submission, Peter Hamill notes that, while some of the flow cut-offs have not been determined by assessing instream flows, this does not mean that the cut off levels have been causing significant impacts on instream life.
275. The Fish and Game submission (509.388) is a general submission on Schedule 3 of Appendix 6 but is appropriate to consider at this point. The submission seeks for the minimum flows to be amended to ensure that for an FMU dominated by a river with a mean flow less than or equal to 5m<sup>3</sup>/s, a minimum flow of 90% of the naturalised seven day mean

annual low flow (MALF7) is set. And, for an FMU dominated by a river with mean flows greater than 5m<sup>3</sup>/s, a minimum flow of 80% of naturalised MALF7 is set.

276. The submission point offered no explanation for the relief sought. By seeking this change to all minimum flows in Schedule 3, the submitter in essence seeks to replace the content of Policy 5.2.4 with the same. Policy 5.2.4 links back to a specific objective and other policies, which in turn link to identified values, and the provision manifests itself as the limits in Schedule 3 that are appropriate to, and tailored to, each FMU. To replace this framework with a blanket calculation that is to be applied to all river dominated FMUs without any consideration of the specific values those FMUs hold, seems to be an approach that is quite at odds with the RMA, the NPSFM, and good planning.
277. This submission has been considered by Val Wadsworth and, while much of this is covered elsewhere in more depth, he notes the following with regards to the submitters desire to rely on the PNESEF as the basis for many of its submissions. The relevance of the PNESEF is questionable, given that it has been sitting around for over 10 years without being enacted. The PNESEF was a conservative default provision, for where Council's did not have environmental flows in place. At the time it was drafted, the WARMP and MSRMP provisions, which have been carried over into the MEP were already in place, so had the PNESEF actually come into effect at that time, it would not have applied to those rivers. The draft was developed as being an interim, mathematical measure to ensure protection for rivers, but could be amended to reflect local knowledge and values. As such it was conservative.
278. This submission has also been considered by Peter Hamill and he notes that there are issues about what a naturalised flow actually is. Is that just dealing with point source abstractions or does it take into account vegetation coverage within the catchment, and the like? Peter does not believe that naturalised flows can or should be used in these situations. Fish do not care if the flow is naturalised or not, they just need the flow.

### **Recommendation**

279. It is recommended that Policy 5.2.4 is amended as follows –

*“Set specific ~~environmental~~ **minimum** flows and/or levels for Freshwater Management Units dominated by rivers, lakes and wetlands to:*

- (a) protect the mauri of the waterbody;*
- (b) protect instream habitat and ecology;*
- (c) maintain fish passage and fish spawning grounds;*
- (d) preserve the natural character of the river;*
- (e) maintain water quality;*
- (f) provide for adequate groundwater recharge where the river is physically connected to an aquifer or groundwater; ~~and~~*
- (g) maintain amenity values, **and***
- (h) **enable natural flushes in rivers to occur.**”*

280. It is recommended that the explanation to Policy 5.2.4 is amended as follows –

*“Policy B1 of the NPSFM requires the Council to set environmental flows and/or levels for all FMUs. An environmental flow or level includes an allocation limit and a minimum flow or level. This is a complex task given the diversity in the natural and human use values supported by rivers, lakes and wetlands and the variation in the flow/level required to maintain those values. This policy sets out the matters that have been considered in the process of setting the ~~environmental~~ **minimum** flows/levels established in the MEP. The*

*environmental minimum flows/levels are intended to provide sufficient water to sustain the matters identified in (a) to (g)."*

### Appendix 6 – Schedule 3

281. Schedule 3 of Appendix 6 is titled "*Minimum Flows and Levels for Water Takes*". The following submissions are those made on Schedule 3 of Appendix 6 as they relate to rivers, and are therefore associated with Policy 5.2.4.
282. There are 14 submissions<sup>15</sup> that support Schedule 3 of Appendix 6 with regards to the Awatere, Wairau and Waihopai FMUs and seek retention of the provisions within this Schedule relating to these FMUs as notified. While these submissions mention specific parts of Schedule 3, they are technically submissions recorded on the whole of Schedule 3 therefore, as there are some changes recommended to the Schedule, these 14 submissions are recorded in Appendix 1 as accepted in part.
283. The submissions assessed below are separated out by FMU.

#### **Awatere FMU**

284. The WilkesRM Limited submission (359.036) and the AWUG submission (548.141) both seek that the management flow for Awatere FMU Class C water is amended, however they seek different amendments. WilkesRM Limited seeks that the management flow is amended to reflect the increase in Class C allocation, that it seeks in a separate submission, to 302,400m<sup>3</sup>/day (the notified allocation is 224,640m<sup>3</sup>/day). AWUG seeks that the management flow is amended to reflect the increase in Class C allocation that it seeks in a separate submission to 259,200m<sup>3</sup>/day.
285. The submitters reasoning connects back to their submissions on the allocation limit. These submissions have been assessed by Val Wadsworth, and the following is his advice –
- The amendment of the management flow as sought for the Awatere FMU Class C is contingent on accepting one of the corresponding submissions seeking to increase the Class C allocation limit, in separate advice Val has recommended the acceptance of the AWUG submission in this regard.
  - As a consequence of the relief sought and the recommendation to increase the Class C allocation limit from 224,640m<sup>3</sup>/day to 259,200m<sup>3</sup>/day, the current threshold in Schedule 3 for commencing rationing of Class C needs adjustment to allow for this to happen.
  - The current thresholds for Awatere FMU Class C are, rationed below 9.5m<sup>3</sup>/s and fully restricted below 5.6m<sup>3</sup>/s.
  - The calculation of the thresholds needs to take into account the increase in flows from the Awapiri recorder to the sea, and the 2:1 flow sharing used in the original WARMP, and continued through into the MEP. It should be noted that for the purposes of the Awatere FMU, 2:1 flow sharing means that the Class C band is sized to be 50% bigger than the allocation, meaning that if the C band contains an allocation of 3.0m<sup>3</sup>/s, and an environmental share of 1.50m<sup>3</sup>/s, as rationing progresses from onset, both the users and the environmental share reduce proportionally. This change had already been made in the notified MEP, however the increase to 3.0m<sup>3</sup>/s allocation was overlooked, so the rationing threshold does not need to change.

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<sup>15</sup> 1231.002 (Waihopai Valley Vineyards Limited), 746.002 (G Webb), 835.002 (Osgro Seed Service), 181.001 (Andebrook Farming Limited), 356.004 (Coatbridge Limited), 475.010 (J Timms), 1248.002 (J Fowler), 342.001 (Willow Flat Farm Limited), 124.001 (R Lindsay), 1201.162 and 1201.163 (Trustpower Limited), 288.022 (M Croad), 297.002 (Red Barn Vineyards) and 301.001 (Hawkswood Vineyard Limited)



- The lower end or cut-off of the Class C of 5.6m<sup>3</sup>/s does not require amendment. The calculation is set out in the table below. Read clockwise from 5.6m<sup>3</sup>/s back around to the final result of 9.45m<sup>3</sup>/s, which we can round up and leave at the notified 9.50m<sup>3</sup>/s or amend to the exact figure of 9.45m<sup>3</sup>/s.

|                         | <b>Flow @ Awapiri (m<sup>3</sup>/s)</b> | <b>Flow @ outlet to sea (m<sup>3</sup>/s)</b> |
|-------------------------|---|---|
|                         | 5.60                                    | 6.87  |
| Add allocation          |   | +3.00   |
| Add Environmental share |   | +1.50   |
| <b>Total</b>            | <b>9.45</b>                             | <b>11.37</b>                                  |

- On the basis of the recommendation to accept the AWUG submission on the allocation limit in Schedule 1, Val is of the view that no amendment to the management flow is necessary and that the rationing flow limit of 9.50m<sup>3</sup>/s as notified should be retained.
- Should the Panel be of a mind to accept the WilkesRM Limited submission on the allocation limit in Schedule 1, then an increase to the rationing flow limit for the Awatere FMU Class C in Schedule 3 to 10.09m<sup>3</sup>/s would be required.

286. In addition, the AWUG submission supports the retention of the minimum flow of 2m<sup>3</sup>/s at the outlet to the sea as in its view it has been in place for more than 20 years and has proven effective at protecting in-stream values. Further, it states that any elevation of the minimum flow trigger level would have serious impact on the reliability of the water source for irrigation, and significant consequences on the social and economic wellbeing of the Awatere community. AWUG also supports the retention of the environmental limits for the Awatere FMU A and Class B water, and the municipal allocation, for similar reasons.

287. On the basis that the notified management flows already accommodate the increased Class C allocation sought by AWUG, its submission is recommended for acceptance.

288. The DOC submission (479.274) seeks that a default minimum flow of 90% of 7DMALF for the Awatere FMU Class A allocation is imposed until the Council undertakes a review of setting minimum flows that will provide instream flow requirements for freshwater ecosystems to give effect to proposed Objective 5.2 and proposed Policy 5.2.4 of the MEP. The submitter considers the minimum flow to be set at a level that will not provide a safeguard for the life-supporting capacity, ecosystem processes and for indigenous species. DOC states that the Awatere provides habitat for a number of threatened and at-risk species of indigenous fish species and wading birds, and that these values are described in Appendix 5 of the MEP. To DOC's knowledge the minimum flows set in the MEP are not based on existing knowledge of flow requirements to maintain these values, and that the summary of flows and existing allocations of water in this catchment provided in the MDC technical report No: 12-011 demonstrates that the minimum flow for the Awatere River is set so low that abstractions of Class A water have 100% reliability. And also, when comparing the Class A minimum flow to the seven day mean annual low flow for the river this demonstrates that the minimum flows are inappropriate, and DOC consider that the proposed flow regime for the Awatere FMU is inconsistent with Objective B1 of the NPSFM.

289. The Fish and Game submission (509.389) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of naturalised MALF7 within the Awatere FMU. The submitter is of the view that an in-stream flow assessment has been undertaken and is required, or the Council needs to revise its present minimum flow to fall in line with the draft national environment standards for the Awatere FMU. It is assumed that the submitter in this, and all other similar references throughout its submissions, is referring to the Proposed National Environmental Standard on Ecological Flows and Water Levels (2008) (PNESEF).

290. These submissions have been assessed by Val Wadsworth, and the following is his advice –

- The current minimum flow set for the Awatere at its outlet to the sea is 2.0m<sup>3</sup>/s. This figure was set in the mid-1990s in consultation with interested parties, including DOC, and Fish and Game.
- Firstly, there is obviously a difference in interpretation of the PNESEF between Fish and Game and DOC. The figure of 90% of MALF7 was proposed for rivers with mean flows of less than 5m<sup>3</sup>/s and for rivers with a MALF7 greater than 5m<sup>3</sup>/s this was 80%. The mean flow of the Awatere River is 13.7m<sup>3</sup>/s, so the DOC interpretation is incorrect.
- However, it is necessary to note that this PNESEF, which was proposed many years ago and never adopted, was to be a default and only to be used in the absence of specific, local rules. As such it is generally recognised that it was set at a very conservative level, which local regions could then adapt to their own particular situation. Essentially, we did that exercise back in the late 1990s during the drafting of the WARMP, with input from Fish and Game, and DOC at that time. The setting of minimum flows and allocations should not be a theoretical exercise, when local knowledge and figures can be used.
- It is also worth noting that recent feedback received from the Ministry for the Environment suggests that they are going down the track of looking to provide more useful direction on ecological flows and levels in the NPSFM, rather than pursuing the PNESEF.
- Both submitters have inferred that no ecological assessment has been carried out on the Awatere River, which is incorrect. MDC Hydrologist Eddie Stead carried out a minimum flow assessment in 1998. His executive summary is as follows;
  - *“The purpose of this study was to assess the minimum flow requirements for the target species of Torrent Fish and Blue Gill Bullies in the Lower Awatere River, and to help in supplying quantitative evidence to support or reject the current Sustainable Flow Regime of two cumecs.*
  - *The target species were identified through liaison with the Department of Conservation and the Nelson Marlborough Fish and Game Council.*
  - *Flow requirements for the target species were assessed by examining the relationships between flow and suitable habitat using the Instream Flow Incremental Methodology.*
  - *Results indicate that maximum habitat exists for Torrent fish at approximately 5 cumecs and for Blue Gill Bullies at 4.5 cumecs. The current SFR (minimum flow) of 2 cumecs reduces the available habitat by 7.5% for Torrent Fish and 3.3% for Blue Gill Bullies from the optimum.*
  - *A flow of 2 cumecs is only likely to occur 0.2% of the time at the mouth, and the flow for maximum habitat is likely to occur 10% of the time (using record from 1977 to the end of 1997)”.*
- While no recommendation was given, MDC obviously considered that the minimal effect on the target species was insufficient to warrant any change to the minimum flow. That is still the case.
- Val recommends no change to the minimum flow.

291. This submission has been considered by Peter Hamill and he advises that he does not have any information to show that the current regime is having any impact on those ecological values. Peter has seen from personal observations that there are less bluegill bullies in the Awatere River than there was when he began carrying out fish surveys back in the early 2000's. He does not, however, have any scientific evidence of change or what the drivers for

change are. Without a long-term fish monitoring programme in place there is no way to determine if change is actually occurring. If flows are increased there will be more habitats available for the fish but if some other factors, such as discolouration as a result on infiltration gallery maintenance, are causing the decline it will not solve the issue. More money and research are required to be able to get a better picture of changes in fish populations in Marlborough.

292. Based on the content of the submission, and the advice of Messrs Wadsworth and Hamill, no changes are recommended to Schedule 3 in relation to the Awatere FMU as a consequence of this submission.

### **Waihopai FMU**

293. The Fish and Game submission (509.398) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of MALF within the Waihopai FMU. The submitter is of the view that the Waihopai FMU is a locally important trout fishery and the minimum flow is some 28% below the recommendations in the PNESEF or lower if daily average flows are used for cut-off. Further, an in-stream flow needs assessment is needed for this FMU as currently the fishery collapses in summer due to low flows. In principal, Fish and Game support the Wairau River FMU minimum flow applying to the Waihopai FMU as well.

294. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.

295. This submission was assessed by Peter Hamill, and his advice is –

- Peter is not aware of any collapse of the fishery in the Waihopai due to low flows. The higher turbidity over the last few years as a result of the ongoing natural erosion in the upper catchment will be having an influence of the recreational activity of fishing, so he is not sure any collapse, if it exists, can be directly attributed to low flows.
- Peter is not sure about the classification of the Waihopai as a locally important fishery and would like to see some evidence and numbers that put this into the category. He has anecdotal evidence that no trout fishers fish the Waihopai. No specific information has been provided on what part of the River is the important fishery, and therefore where the instream assessment should take place.
- Peter also agrees that Wairau cut offs should apply to the Waihopai.

296. Based on the content of the submission, and the advice of Messrs Wadsworth and Hamill, no changes are recommended to Schedule 3 in relation to the Waihopai FMU as a consequence of this submission.

### **Wairau FMU**

297. Five submissions<sup>16</sup> seeks that all the Wairau River FMU water takes are considered equal (both below and above The Narrows) and therefore have the same minimum flow level cut off of 8m<sup>3</sup>/s at Barnett's Bank. In the submitters view this is effectively the current situation, however it is noted that a portion of consents do have a condition relating to the Wash bridge flow which has never been implemented. The submitters consider that the current management flow of 8m<sup>3</sup>/s for full restriction for all Wairau River users has shown that there are no adverse effects on instream values, whereas any changes will have a significant negative economic and social impact on those consent holders currently above The Narrows. The minimum flow of 8m<sup>3</sup>/s at Barnett's Bank for the Wairau River FMU, as notified, is supported but the new restriction at Dip Flat of 7.320m<sup>3</sup>/s is opposed.

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<sup>16</sup> 253.001 (J Collett), 254.001 (S Mackenzie), 312.002 (J Fowler), 315.001 (N Winter) and 1124.001 (S Mackenzie)

298. This submission has been assessed by Val Wadsworth, and the following is his advice –

- Hydrology of the Wairau River

- The Wairau River catchment comprises over 3500 ha; it is approximately 150 km from source to sea, and generally no more than 30 km wide. Its long, narrow shape means that the various parts of the catchment are hydrologically different, for instance the lower Northbank catchments are exposed both to north-westerly events, and easterly events, while the upper parts of the Northbank are less exposed to easterly events.
- The Upper Wairau above the Branch River is well inland, and generally more sheltered from north-west to north-north-westerly events than the middle and lower catchment. Its main rainfall exposure is more from westerly events, which also affect West Coast Rivers. The high elevation and associated high rainfall of the upper catchment mean that it supplies a large portion of the summer low flows of the whole Wairau catchment. For instance, on 25/26 February 1973, a notable drought period, flow at the Dip Flat recorder (catchment area 515km<sup>2</sup>) was 5.9m<sup>3</sup>/s, while flow at Kerrs Lane, just above the Waihopai confluence (catchment area 2400km<sup>2</sup>) was 12.4m<sup>3</sup>/s. In other words, 21% of the catchment was providing 48% of the low flows. However, there are rare occasions when weather patterns cause drought on the West Coast, while the lower Richmond Range/Marlborough Sounds area is receiving occasional rainfall, and flows from the lower Northbank streams such as the Waikakaho and Onamalutu are providing a greater proportion of the total Wairau flow.

- Discussion

- The hydrological situation outlined above is the reason this provision was inserted in the WARMP, as Val recalls, it was at the insistence of Fish and Game as part of its appeal against the original provisions of the WARMP. Originally the measurement point was to be the Wash Bridge, and MDC was to install a recorder there, however work done during the Trustpower Limited Wairau River hydro-electric power scheme investigations showed a very high co-relation between Wash Bridge, and the NIWA Dip Flat recorder, so in the interests of avoiding undue effort, and site duplication, it was decided during the MEP process to use Dip Flat, with the figure adjusted accordingly.
- It is somewhat a belts and braces approach to have two different trigger points for one reach of river, and was intended to ensure that in the event of unusual circumstances where flows from the upper catchment were low, that the reaches of river which may be affected by consented takes had a backup provision. No real check of the likelihood of this occurring was carried out as far as Val can remember.
- To check the relative likelihoods, hydrological records for the period 1961 to 2001 inclusive (a period before any substantial takes in the Wairau Valley area) were examined to determine the extent of cut-off resulting from each provision. Only cut-offs in the irrigation months October to April were examined. The results are tabulated below.

| Year  | Months  | Dip Flat cut-offs (days) | Barnetts Bank cut-offs (days) |
|-------|---------|--------------------------|-------------------------------|
| 1963  | Jan-Feb | 14                       | 6                             |
| 1965  | Mar     | 1                        | 0                             |
| 1971  | Jan-Feb | 0                        | 3                             |
| 1972  | Jan-Apr | 0                        | 26                            |
| 1973  | Feb-Apr | 63                       | 60                            |
| 1978  | Feb-Mar | 25                       | 25                            |
| 1979  | Mar     | 5                        | 0                             |
| 1981  | Jan-Mar | 0                        | 7                             |
| 1983  | Mar     | 0                        | 17                            |
| 1985  | Apr     | 9                        | 4                             |
| 1988  | Feb     | 0                        | 1                             |
| 1999  | Feb     | 9                        | 7                             |
| 2001  | Mar-Apr | 23                       | 44                            |
| Total |         | 149                      | 200                           |

- Generally, the two are similar, or there are more days cut-off as a result of the Barnetts Bank condition, than the Dip Flat condition. The exceptions are 1963, 1979, and 1985. There is always the possibility of low flow records being slightly compromised due to lack of calibration in some years, so minor errors are possible.
- Another point to be considered is that Trustpower Limited have further submitted in opposition to one of the submitters (J Collett), stating that “*appropriate consideration needs to be given to the flow regime established in the consent conditions for the Wairau Hydro scheme*”. Val finds this reasoning strange, as at the flow level at which the Wairau Valley abstractors would shut off (7.32m<sup>3</sup>/s at Dip Flat), flows at the Trustpower Limited intake (based on their own hydrologists work) would be 9.0m<sup>3</sup>/s, below their minimum operating figure of 10m<sup>3</sup>/s.
- It is noted that Fish and Game have not submitted on this matter, nor further submitted against those parties wishing to remove the restriction.
- **Reasons for leaving the MEP provision as notified** – backup approach, which was requested by Fish and Game during mediation on its appeal of the WARMP. Trustpower Limited opposition to changing.
- **Reasons for removing the Dip Flat management flow from the MEP** – very rarely likely to be relevant. Also, as this is a NIWA site, not maintained by MDC, the Council would be relying on an under-resourced NIWA field team to keep calibrations up to date. In the event of flow approaching that threshold we would be obliged to carry out one or more site visits ourselves to gauge the river and check the rating calibration, as we do with all our own sites when cut-offs are imminent. The site is about 1½ hours drive from Blenheim, and would require two staff to visit, total man hours per visit including office work estimated at 10 staff hours per visit, at a time of year when low flow field work throughout the district would be important.

- Recommended
  - No firm recommendation as unsure whether the benefit of keeping the management flow outweighs the effort required, however inclined slightly toward removing provision.

299. This submission has also been assessed by Peter Hamill and he concurs with the advice of Val Wadsworth, noting Dip Flat is a “nice to have” rather than a “must have”. Peter reiterates Val’s advice that the logistics of ensuring the data is accurate is a big issue, and if the Council is restricting water taken it will impact on a lot of people’s ability to produce their crops, therefore we need certainty around the data, and without additional resources this does not appear to be feasible.

300. Based on the advice received from Messrs Wadsworth and Hamill, the content of the submissions, the lack of opposition through further submissions (except Trustpower Limited on one submission) and no concerns being raised by Fish and Game, I support the advice received to remove the Dip Flat environmental limit from Schedule 3 of Appendix 6.

301. The Save the Wairau submission (1142.007) seeks the adoption of the Cawthron Report<sup>17</sup>, or as an alternative the default position of the PNESEF as, in its view, there is an absence of sound scientific assessment. Val Wadsworth has considered this submission and at this time considers it to be too general to make an assessment. It may be that discussion on in relation to other submissions respond to the submitters concerns.

302. The Fish and Game submission (509.399) seeks that the new approach to flow modelling (net rate of energy intake modelling (NREI)) be commissioned to inform the management for minimum flow and allocation setting, or that the minimum flows are replaced with a minimum flow of 90% of naturalised MALF7. The submitter provides no information to support this submission point, except to reference the Cawthron Report which it states indicates that the proposed flow is too low.

303. This submission has been considered by Peter Hamill and the following is his advice –

- The NREI model has been developed to determine optimum flows for trout of a specific size in specific reaches. It is a very expensive model to run as there needs to be a large amount of data collected in the field to fit into the model as a base to determine the impact of changes in flow. It is totally impracticable to undertake such modelling over the entire Wairau River system to set a river minimum flow.
- The Stark Report<sup>18</sup>, essentially says that, yes, an increase in flow as suggested by the Cawthron Report<sup>19</sup> would provide better habitat for instream life but the existing cut off level does not mean that there will be a loss of species inhabiting the river. While not optimum the lower cut-off will mean that there are less individuals present but will not change the species composition. When the flow has gone below the cut-off in the past, we have seen that the trout fishery has not been severely impacted. A few years back after there were Wairau River cut-offs, there was an article in the paper from Fish and Game saying it was a cracker of a season (article can be supplied on request).

304. This submission was assessed by Val Wadsworth, and his advice on the submitter’s general submission (509.388) on Schedule 3 above applies to this submission also.

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<sup>17</sup> Hay, J. and Hayes, J.N.E (2014). Review of the Wairau River Sustainable Flow Regime. Prepared for Marlborough District Council. Cawthron Report No. 2505

<sup>18</sup> Stark, J.D. (2014). The Wairau River Sustainable Flow Regime – Comment on Cawthron Report No. 2505. Prepared for Marlborough District Council. Stark Environmental Report No. 2014-11

<sup>19</sup> Hay, J. and Hayes, J.N.E (2014). Review of the Wairau River Sustainable Flow Regime. Prepared for Marlborough District Council. Cawthron Report No. 2505

305. Based on the content of the submission, and the advice of Messrs Hamill and Wadsworth, no changes are recommended to Schedule 3 in relation to the Wairau FMU as a consequence of this submission.
306. The Willowhaugh Enterprises Limited submission (345.001) seeks for the minimum flow for the Wairau River FMU Class B water to remain at 8m<sup>3</sup>/s, however the content of the submission suggests that the submitter has not realised that the existing Class B water permits under the WARMP will be Class A under the MEP, therefore the restrictions are not proposed to change and the minimum flow is intended to remain at 8m<sup>3</sup>/s for the consents it is referencing. On the basis that the relief sought already exists in the MEP, the recommendation recorded on the submission is to accept the relief sought.

### **Kaituna FMU**

307. The DOC submission (479.275) seeks that a default minimum flow of 90% of 7DMALF for the Kaituna FMU is imposed until the Council undertakes a review of setting minimum flows that will provide instream flow requirements for freshwater ecosystems to give effect to proposed Objective 5.2 and proposed Policy 5.2.4 of the MEP. The submitter considers the minimum flow for the Kaituna FMU to be set at a low level, and that it is not certain that the level set will provide for ecosystem processes and habitats for indigenous species, noting that dwarf galaxias and longfin eel are located within this catchment, and the setting of minimum flows needs to provide for the safeguarding of habitat for these species.
308. The Fish and Game submission (509.390) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of naturalised MALF7 within the Kaituna FMU. The submitter is of the view that an in-stream flow assessment has been undertaken and is required, or the Council needs to revise its present minimum flow to fall in line with the PNESEF for the Kaituna FMU.
309. These submissions were assessed by Val Wadsworth, and his advice on Fish and Game's general submission (509.388) on Schedule 3 above applies to these submissions also.
310. These submissions were also assessed by Peter Hamill, and he agrees that there are high fish values in this catchment and flows should be set to ensure that they are protected. In his view, there are still good numbers of dwarf galaxias in the main stem and small tributaries, so the existing flow regime has allowed them to continue to thrive.
311. Based on the content of the submission, and the advice of Messrs Hamill and Wadsworth, no changes are recommended to Schedule 3 in relation to the Kaituna FMU as a consequence of this submission.

### **Opouri FMU**

312. The DOC submission (479.275) seeks that a default minimum flow of 90% of 7DMALF for the Opouri FMU is imposed until the Council undertakes a review of setting minimum flows that will provide instream flow requirements for freshwater ecosystems to give effect to proposed Objective 5.2 and proposed Policy 5.2.4 of the MEP. The submitter notes that the Opouri FMU minimum flows are linked to those set for the Rai River at Rai Falls and, while water abstraction from the Opouri will influence the flow at the downstream recorder it is considered necessary to also apply a separate minimum flow to the Opouri catchment, and a minimum flow equal to the default in the MEP is considered appropriate until instream flow requirement assessments are undertaken.
313. The Fish and Game submission (509.391) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of naturalised MALF7 within the Opouri FMU. The submitter is of the view the Opouri FMU is a valued brown and rainbow trout fishery and the existing Rai River management flow is inadequate.

314. These submissions were assessed by Val Wadsworth, and his advice on Fish and Game's general submission (509.388) on Schedule 3 above applies to these submissions also.
315. These submissions have been assessed by Peter Hamill, and he advises that the Opouri River is essentially the upper reaches of the Rai River and is only some 11 kilometres or so upstream of the Rai Recorder. It is his view, that a separate minimum flow at the Opouri is not necessary to protect instream life. Parts of the Opouri are intermittent so it would become hard to determine what part of the river the low flow was being set to protect. It is Peter's understanding that there are a limited number of takes in the Opouri and therefore having the infrastructure to record the flows would not be economic for such a small number of takes.
316. Based on the content of the submission, and the advice of Messrs Hamill and Wadsworth, no changes are recommended to Schedule 3 in relation to the Opouri FMU as a consequence of this submission.

### **Ronga FMU**

317. The DOC submission (479.277) seeks that a default minimum flow of 90% of 7DMALF for the Ronga FMU is imposed until the Council undertakes a review of setting minimum flows that will provide instream flow requirements for freshwater ecosystems to give effect to proposed Objective 5.2 and proposed Policy 5.2.4 of the MEP. The submitter notes that the Ronga FMU minimum flows are linked to those set for the Rai River at Rai Falls and, while water abstraction from the Ronga will influence the flow at the downstream recorder it is considered necessary to also apply a separate minimum flow to the Ronga catchment, and a minimum flow equal to the default in the MEP is considered appropriate until instream flow requirement assessments are undertaken.
318. The Fish and Game submissions (509.234 and 509.235) seek that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of naturalised MALF7 within the Ronga FMU. The submitter is of the view the Ronga FMU is a valued brown and rainbow trout fishery and has cool summer temperatures providing suitable habitat for trout and the proposed minimum flows are unacceptable because they will allow the FMU to be drawn down below the current default in the PNESEF, so in the absence of a detailed in-stream assessment and without ecological justification for any additional Class B allocation in this already over-allocated waterway, no Class A and B water allocation should be provided.
319. These submissions were assessed by Val Wadsworth, and his advice on Fish and Game's general submission (509.388) on Schedule 3 above applies to these submissions also.
320. These submissions have been assessed by Peter Hamill, and he advises that the Ronga River is essentially the upper reaches of the Rai River and is only some 11 kilometres or so upstream of the Rai Recorder. It is his view that a separate minimum flow at the Ronga is not necessary to protect instream life.
321. Based on the content of the submission, and the advice of Messrs Hamill and Wadsworth, no changes are recommended to Schedule 3 in relation to the Ronga FMU as a consequence of this submission.

### **Pelorus FMU**

322. The Fish and Game submission (509.392) seeks clarification but not relief for which an assessment or recommendation is required. The submitter states clarification is needed over whether the Pelorus FMU in Schedule 3 is the combination of Pelorus (Upper) and Pelorus (Lower) FMU's from Schedule 1 of Appendix 6. In a sense this is not relevant as consents can only be sought to take water from the Lower Pelorus FMU (the Upper Pelorus FMU has



a zero allocation limit) so the flow restrictions in Schedule 3 can only apply to that FMU. It is noted that there is a submission on the FMU Overlay maps to correct an error with the boundary between the Upper and Lower Pelorus FMUs, however no adjustments to Appendix 6 are required as a consequence.

323. The Fish and Game submission (509.393) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of naturalised MALF7 within the Pelorus FMU. The submitter is of the view that there is no data on the naturalised MALF7 for this FMU nor has an in-stream flow assessment been undertaken, and this assessment is required, or the Council needs to revise its present minimum flow to fall in line with the PNESEF for the Pelorus FMU.
324. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.
325. Based on the content of the submission, and the advice of Mr Wadsworth, no changes are recommended to Schedule 3 in relation to the Pelorus FMU as a consequence of this submission.

#### **Rai FMU**

326. The Fish and Game submission (509.394) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 80% of naturalised MALF7 within the Rai FMU. The submitter is of the view the Rai FMU is a valued brown and rainbow trout fishery and has cool summer temperatures providing suitable habitat for trout and the proposed minimum flows are unacceptable because they will allow the FMU to be drawn down below the current default in the PNESEF, so in the absence of a detailed in-stream assessment and without ecological justification for any additional Class B allocation in this already over-allocated waterway, no Class A and B water allocation should be provided.
327. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.
328. Based on the advice of Mr Wadsworth, no changes are recommended to Schedule 3 in relation to the Rai FMU as a consequence of this submission.

#### **Tunakino FMU**

329. The Fish and Game submission (509.396) seeks that the Council undertake in-stream flow assessments, or replace the flows with flows that fall in line with the PNESEF. The submitter is of the view that the Tunakino FMU is locally significant as recreational brown and rainbow trout fishery and has juvenile rearing streams, and contributes water to a regionally significant Rai fishery.
330. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.
331. These submissions have been assessed by Peter Hamill, and he advises that the Tunakino River is essentially the upper reaches of the Rai River and is only some 14 kilometres or so upstream of the Rai Recorder. It is Peter's view that a separate minimum flow at the Tunakino is not necessary to protect instream life.
332. Based on the content of the submission, and the advice of Messrs Hamill and Wadsworth, no changes are recommended to Schedule 3 in relation to the Tunakino FMU as a consequence of this submission.

## Tuamarina FMU

333. The Fish and Game submission (509.397) seeks that the Council undertake in-stream flow assessments and/or replace the flows with a minimum flow of 90% of naturalised MALF7 within the Tuamarina FMU, and the implementation of a rationing/roster system to achieve a higher minimum flow and one for one flow sharing for this FMU. The submitter is of the view that the Tuamarina FMU is a locally important trout fishery and also feeds the hydrology of Marlborough's most significant lowland wetland, Para Wetland, and an in-stream flow and wetland hydrology level assessment has not been undertaken.
334. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.
335. These submissions have been assessed by Peter Hamill, and he advises finds it hard to accept that the Tuamarina River is a locally important trout fishery. Yes, there are trout in the river and maybe someone occasionally fishes in it but does this make it a locally significant fishery. The lower reaches are heavily infested with aquatic vegetation and the upper reaches are incised and boarded by willows. Both of these things make fishing very difficult. The recreational pursuits of one or two people do not make something significant. No information to justify the local importance has been given. Ensuring that there is sufficient water in the River to protect the wetland values is important. These values have been retained through the current flow regime that is in place. Peter has not seen any evidence that water levels in the wetland have been impacting on the health and viability of the wetland.
336. Based on the content of the submission, and the advice of Messrs Hamill and Wadsworth, no changes are recommended to Schedule 3 in relation to the Tuamarina FMU as a consequence of this submission.

## Taylor River FMU

337. The MDC submission (91.257) seeks an amendment of Schedule 3 with regards to the Taylor River FMU the row for Class C to be added was excluded in error and the notified information is inconsistent with the intention of the management for this FMU, particularly relative to the allocation limit in Schedule 1. The amendment to the Class A management flow description is to correct an inconsistency. There are no relevant further submissions in opposition to this submission point. The amendments sought to the table row for the Taylor River FMU are as follows –

| FMU          | Class    | Minimum Flow   | Monitoring Site     | Management Flow  |
|--------------|----------|--|---------------------|--|
| Taylor River | A        | Minimum of 1.000m <sup>3</sup> /s at Hutcheson Street  | Hutcheson Street    | <del>Minimum</del> <b>Fully restricted</b> of 1.000m <sup>3</sup> /s |
|              | <b>C</b> | <b>Minimum of 0.300m<sup>3</sup>/s at Borough Weir</b> | <b>Borough Weir</b> | <b>Fully restricted of 0.300m<sup>3</sup>/s</b>                      |

338. The Fish and Game submission (509.402) seeks that the Council undertake a suitable ecological assessment to accurately determine minimum flows for the Taylor River FMU or replace the flows with a minimum flow of 90% of naturalised MALF7. The submitter is of the view that the flows do not meet the existing plan objectives for the Taylor River FMU and that the minimum flows are based on the lowest ever recorded flows as opposed to any robust ecological assessment.

339. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.
340. These submissions have been assessed by Peter Hamill, and he advises that the Taylor River in the upper reaches above the Taylor Dam is naturally intermittent in some reaches with the flow being zero for relatively long periods of time. The flow in the Taylor River where trout fishing is possible is dominated by the flow from Doctors and Murphy's Creeks.
341. The submitter asserts that the minimum flow for the Taylor River FMU does not meet the existing Plan objectives for that waterway, I am not clear about what this is referencing as I am not aware of there being any Plan objectives specifically for Taylor River FMU. Based on the content of the submission, and Messrs Hamill and Wadsworth's advice, I do not recommend any changes to Schedule 3 of Appendix 6 with regards to the Taylor River FMU.

### Ōpaoa FMU

342. The MDC submission (91.258) seeks an amendment of Schedule 3 to add the following row to the table with regards to the Ōpaoa FMU as the notified table does not reflect the intended description or management of this FMU. There are no relevant further submissions in opposition to this submission point. The amendments sought to the table to add the following row after the existing row for the Ōpaoa FMU are as follows –

| FMU  | Class      | Minimum Flow  | Monitoring Site         | Management Flow                                 |
|--|------------|---|-------------------------|---|
| <b>Ōpaoa (below Mills and Road to the confluence of the Opaoa and Taylor Rivers)</b> | <b>n/a</b> | <b>Minimum of 0.500m<sup>3</sup>/s at Ōpaoa River immediately below the confluence of the Ōpaoa and Taylor Rivers</b> | <b>Hutcheson Street</b> | <b>Fully restricted of 1.000m<sup>3</sup>/s</b> |

343. The submitter also seeks an amendment of Schedule 3 to amend the existing row in the table for the Ōpaoa FMU as table contains an error and the notified table does not reflect the intended description of this FMU. Further, the change from O'Dwyers Road to Mills and Ford Road is a consequential amendment due to an amendment sought to Schedule 1. There are no relevant further submissions in opposition to this submission point. The amendments sought to the table for the Ōpaoa FMU are as follows –

| FMU   | Class            | Minimum Flow   | Monitoring Site         | Management Flow                                 |
|---|------------------|--|-------------------------|---|
| <b>Ōpaoa (below from O'Dwyers Mills and Ford Road to the confluence of the Ōpaoa and Taylor Rivers)</b> | <b>A<br/>n/a</b> | <b>Minimum of 1.500m<sup>3</sup>/s adjacent to Sec 1 SO 417530</b> | <b>Hutcheson Street</b> | <b>Fully restricted of 1.000m<sup>3</sup>/s</b> |

344. The Fish and Game submission (509.403) seeks that the Council undertake a suitable ecological assessment to accurately determine minimum flows for the Ōpaoa FMU or replace the flows with a minimum flow of 80% of MALF7. The submitter is of the view that the flows

do not meet the existing Plan objectives for the Ōpaoa FMU and that the minimum flows are based on the lowest ever recorded flows as opposed to any robust ecological assessment.

345. This submission was assessed by Val Wadsworth, and his advice on the submitter's general submission (509.388) on Schedule 3 above applies to this submission also.
346. This submission was also assessed by Peter Hamill, and he agrees that a full ecological assessment has not taken place for the Ōpaoa, however the Upper Ōpaoa flow is sustained from the flow augmented from the Wairau and Waihopai Rivers. The natural flow for this portion of the river is zero, and therefore he is not sure the ecological assessment will take into account the augmented flows. The Lower Ōpaoa level, or to a degree flow, are controlled by the tidal influence of the inflow from the Wairau River, and therefore setting the ecological flow at the minimum ever recorded is a valid approach.
347. The submitter asserts that the minimum flow for the Ōpaoa FMU does not meet the existing Plan objectives for that waterway, I am not clear about what this is referencing as I am not aware of there being any Plan objectives specifically for Ōpaoa FMU. Based on the content of the submission, and Messrs Hamill and Wadsworth's advice, I do not recommend any changes to Schedule 3 of Appendix 6 with regards to the Ōpaoa FMU.

### **Spring Creek FMU**

348. The Fish and Game submission (509.400) seeks that the Council undertake a suitable ecological assessment to accurately determine minimum flows for the Spring Creek FMU or replace the flows with a minimum flow of 90% of MALF7. The submitter is of the view that the flows do not meet the existing plan objectives for the Spring Creek FMU and that the minimum flows are based on the lowest ever recorded flows as opposed to any robust ecological assessment.
349. This submission has been assessed by Peter Hamill, and he advises that the ecological values of Spring Creek are well known and documented, and the cut-off levels have been set very conservatively to a level that has never been reached before. The existing regime is not changing, just protecting the Creek into the future.
350. The submitter asserts that the minimum flow for the Spring Creek FMU does not meet the existing Plan objectives for that waterway, I am not clear about what this is referencing as I am not aware of there being any Plan objectives for Spring Creek. Based on the content of the submission, and Mr Hamill's advice, I do not recommend any changes to Schedule 3 of Appendix 6 with regards to the Spring Creek FMU.
351. The Walnut Creek Partnership submission (264.001 – in part) seeks that the imposing of restrictions on the Spring Creek FMU based on the water level at the Spring Creek Motor Camp is deferred until there is absolute scientific clarity about the influences on those water levels.
352. The reasons given link back to the part of the submission relating the restrictions on the Wairau Aquifer Urban, Central and North FMUs, therefore the comments and advice relative to those submissions later in this report are applicable here. In addition, the advice of Peter Hamill above, specifically in relation to the Spring Creek FMU equally responds to this submission. The relief sought is not supported.

### **Omaka River FMU**

353. The Fish and Game submission (509.401) seeks that the Council undertake a suitable ecological assessment to accurately determine minimum flows for the Omaka River FMU or replace the flows with a minimum flow of 80% of MALF7. The submitter is of the view that the flows do not meet the existing plan objectives for the Omaka River FMU and that the

minimum flows are based on the lowest ever recorded flows as opposed to any robust ecological assessment.

354. This submission has been considered by Val Wadsworth, and the following is his advice –

- Firstly, it is necessary to note that this NES which was proposed many years ago and never adopted, was to be a default, only to be used in the absence of specific, local rules. As such it is generally recognised that it was set at a very conservative level, which local regions could then adapt to their own particular situation. Essentially, we did that exercise back in the late 1990s during the drafting of the WARMP, with input from Fish and Game and DOC at that time. The setting of minimum flows and allocations should not be a theoretical exercise, when local knowledge and figures can be used.
- It is also worth noting that recent feedback received from MfE suggests that they are going down the track of looking to provide more useful direction on ecological flows and levels in the NPSFM, rather than pursuing the NES. This means that the draft NES will likely carry even less weight in the future.
- The Omaka River is a very interesting case, and the limits on the river were set based on a high degree of understanding of the flow regimes of the river.
- The measurement point for the Omaka is at a gorge, just upstream of the Tyntesfield homestead. Below this gorge the valley widens out as flows down the broader alluvial reach of the Omaka Valley, eventually emerging onto the Wairau Plain, as it flows through the alluvial sections the river loses water to groundwater, providing recharge for the Omaka River Valley aquifer, and other aquifers to the east. These losses are particularly high in the lowest sections near Renwick, just before it joins Gibsons Creek to form the Ōpaoa River.
- Historically the lower reaches of the Omaka River, and Ōpaoa River right down to O'Dwyers Road dried up for long periods every year, however since the construction of the Southern Valleys Irrigation scheme by MDC in 2004, the environmental flow share of the SVIS has kept the Ōpaoa River perennial in all but the lowest of flow conditions, thanks to re watering via the Gibson's Creek intake from the Wairau River.
- The lower reaches of the Omaka still dry up for many months each year, and flow connection with the Ōpaoa system is limited to just a few months of high Omaka flows. The dry section is usually about 3km long, from the Ōpaoa junction, to a point about midway between SH6 and Hawkesbury Road. In very dry years, such as 2001, this dry reach may extend up to Lake Timara Road (6km total), and even right back to Tyntesfield Road (14km).
- In very general terms, Omaka flows need to be about 600L/s to extend flows to SH6, and between 1200L/s and 2000L/s to achieve flow connection with the Ōpaoa. It is for this reason that an ecological assessment is considered unnecessary, the reach down to just below Hawkesbury Road is usually flowing, and the extra flow needed to achieve connection is several times greater than the total Class A and B allocations of 18,144m<sup>3</sup>/day (210L/s). This is particularly so given that these allocations are not taken directly from the river, but from wells in the adjacent groundwater systems, with the river perched above the aquifer so that the effects of the abstractions are buffered to a significant degree.
- Carrying out an ecological study on a river, where the effects of the abstractions are so minimal relative to the natural flow regime of the river is considered to be a futile exercise.
- For the record setting the minimum flow at 80% of MALF7 would result in a figure of 113L/s, which would provide very little extra protection for the ecological values, given the flow regime of the river. I also note here that Fish and Game are being inconsistent,

if they wanted to apply the provisions of the PNESEF they should have used 90%, as the mean flow of the Omaka is less than 5m<sup>3</sup>/s, being about 1.15m<sup>3</sup>/s.

- Val recommends that the Omaka River FMU minimum flows remain unchanged.

355. The submitter asserts that the minimum flow for the Omaka River FMU does not meet the existing Plan objectives for that waterway, I am not clear about what this is referencing as I am not aware of there being any specific Plan objectives for the Omaka River. Based on the content of the submission, and Mr Wadsworth's advice, I do not recommend any changes to Schedule 3 of Appendix 6 with regards to the Omaka River FMU.

356. The NZDF submission (992.099) seeks that instead of full restrictions that rationing occurs when the Tyntesfield Gorge is below 0.067m<sup>3</sup>/s. The submitter indicates that the Schedule is difficult to use, however most of its "assumptions" are correct so it is not clear where the confusion is for the NZDF. The submitter notes that well 10231 is referred to but it is not shown on MEP maps for FMUs, this is correct as it is the well related the management purpose, not a monitoring site therefore it is not used to impose management flow or level restrictions.

357. There is no information in the submission to explain why rationing is sought, and other provisions in the MEP explain where and why rationing is appropriate only in selected rivers. I do not recommend any changes as a result of this submission.

### **Recommendation**

358. Except where otherwise recommended below, it is recommended that Schedule 3 in Appendix 6 is retained as notified.

359. It is recommended that the following amendments are made to the Wairau River (above The Narrows) FMU are as follows –

| FMU                              | Class | Minimum Flow                                       | Monitoring Site | Management Flow                            |
|----------------------------------|-------|--|-----------------|--|
| Wairau River (above The Narrows) | A     | Minimum of 8.000m <sup>3</sup> /s at Barnetts Bank | Barnetts Bank   | Fully restricted of 8.000m <sup>3</sup> /s |
|                                  |       |  | Dip Flat        | Fully restricted of 7.320m <sup>3</sup> /s |

360. It is recommended that the Taylor River FMU row in Schedule 3 in Appendix 6 is amended as follows –

| FMU          | Class | Minimum Flow  | Monitoring Site  | Management Flow   |
|--------------|-------|---|------------------|---|
| Taylor River | A     | Minimum of 1.000m <sup>3</sup> /s at Hutcheson Street | Hutcheson Street | <del>Minimum</del> Fully restricted of 1.000m <sup>3</sup> /s |
|              | C     | Minimum of 0.300m <sup>3</sup> /s at Borough Weir     | Borough Weir     | Fully restricted of 0.300m <sup>3</sup> /s                    |

361. It is recommended that the following row is added to the table after the existing row for the Ōpaoa FMU –

| FMU  | Class      | Minimum Flow  | Monitoring Site         | Management Flow                                 |
|--|------------|---|-------------------------|---|
| <b>Ōpaoa (below Mills and Road to the confluence of the Opaoa and Taylor Rivers)</b> | <b>n/a</b> | <b>Minimum of 0.500m<sup>3</sup>/s at Ōpaoa River immediately below the confluence of the Ōpaoa and Taylor Rivers</b> | <b>Hutcheson Street</b> | <b>Fully restricted of 1.000m<sup>3</sup>/s</b> |

362. It is recommended that the following amendments are made to the Ōpaoa FMU are as follows –

| FMU   | Class            | Minimum Flow  | Monitoring Site  | Management Flow                            |
|---|------------------|---|------------------|--|
| <b>Ōpaoa (below from O'Dwyers Mills and Ford Road to the confluence of the Ōpaoa and Taylor Rivers)</b> | <b>A<br/>n/a</b> | Minimum of 1.500m <sup>3</sup> /s adjacent to Sec 1 SO 417530 | Hutcheson Street | Fully restricted of 1.000m <sup>3</sup> /s |

#### Appendix 6 – Schedule 4

363. Schedule 4 of Appendix 6 is titled “*Minimum Flows and Levels for Water Diversions*”. The following submission are those made on Schedule 4 of Appendix 6, which is associated with Policy 5.2.4.

364. The Fish and Game submission (509.404) seeks higher minimum and management flow levels for the Branch River. Currently the minimum flow is 0.700m<sup>3</sup>/s at State Highway 63 Road Bridge and management flows is fully restricted below 1.200m<sup>3</sup>/s. The submitter is of the view that these flows are insufficient to support fish passage and therefore need to be increased to retain 80% of naturalised MALF7. In addition, Fish and Game note its support for the monitoring location at the State Highway 63 Road Bridge. Trustpower Limited have further submitted in opposition to this submission as it is of the view that it is not clear what flow regime is being sought, and it considers a range of matters need to be considered (including the use of water for hydro-generation) in this FMU.

365. The Trustpower Limited submission (1201.164) seeks that the minimum flow is changed from “~~0.700m<sup>3</sup>/s at State Highway 63 Road Bridge~~” to “**1.200m<sup>3</sup>/s at the Branch Weir**”. The submitter is of the view that it is unclear how accurate monitoring could be undertaken at this location or what actions would be taken if the minimum flow at the bridge drops below the defined limit. Trustpower Limited considers a minimum flow of 1.200m<sup>3</sup>/s being set at the Branch Weir is a more appropriate site from a monitoring perspective. It is also unclear what fully restricted below 1.200m<sup>3</sup>/s in intended to address.

366. Trustpower Limited states that it wants to change the minimum flow because the Weir is a better monitoring site, however the Weir is the monitoring site (Fish and Game seem to have misunderstood this too), and the limit for restrictions at that location is 1.200m<sup>3</sup>/s, so it appears the relief sought is already in place. The management flow (purpose) is what is sought to be achieved by imposing the management flow, i.e. 1.200m<sup>3</sup>/s at the Weir should ensure there is a minimum flow of 0.700m<sup>3</sup>/s at the Bridge. Over time the Council will have to measure the efficiency and effectiveness of the provisions in the MEP, which would

include ensuring the management purpose for FMUs is met, but the minimum flow is not used to restrict activities directly. With regards to it not being clear what the restrictions are intended to address, the Volume 1 provisions that are implemented through this Schedule explain that the purpose is to protect the natural and human use values identified for the FMU.

367. These submissions have been assessed by Val Wadsworth, and the following is his advice –

- 500L/s is at the high end of the observed losses.
- Fish and Game say 700L/s at the State Highway 63 Road Bridge is insufficient for fish passage, it is assumed they will justify this at the hearing. Val's recollection is that at this flow, and in the conditions surveyed on site, there were a couple of very short reaches of river where fish passage may not be possible, but overall not significant.
- The 80% MALF Fish and Game are seeking will undoubtedly be 80% of full natural Branch flow before the effect of take, in other words about 80% of about 4m<sup>3</sup>/s, therefore about 3.2m<sup>3</sup>/s, subject to a determination of "naturalised" flow.
- A figure of 80% would probably provide trout habitat, which is a change in position for Fish and Game as all prior discussions have been around providing passage only, which requires lesser flow.

368. These submissions have also been assessed by Peter Hamill, and he is in agreement with the assessment and advice of M Wadsworth.

369. On the basis that the submitters have either misunderstood the provisions, or provided insufficient information to support change, and the expert advice received, no changes are recommended as a consequence of these submissions.

### **Recommendation**

370. It is recommended that Schedule 4 of Appendix 6 is retained as notified.

### **Policy 5.2.5**

371. Policy 5.2.5 reads as follows –

*"With the exception of water taken for domestic needs or animal drinking water, prevent the taking of water authorised by resource consent when flows and/or levels in a Freshwater Management Unit are at or below a management flow and/or level set as part of an environmental flow and/or level set in accordance with Policy 5.2.4."*

372. There are eight submissions<sup>20</sup> that support Policy 5.2.5 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission (Fonterra 1251.004), the recommendation for these eight submissions in Appendix 1 are recorded as accepted in part.

373. The Fish and Game submission (509.036) and the EDS submission (698.015) seek retention of the Policy with an amendment to replace "*prevent*" with "*avoid*" as they are of the view that the use of the term "prevent" aligns with the use of the term avoid in the RMA so to ensure consistency with the RMA, the word prevent should be replaced with avoid.

374. The change sought would be inconsistent with the approach in the MEP that policies using the word "*avoid*", that are directly linked to rules, are implemented through Prohibited Activities. That is not the case for the rules that give effect to this Policy therefore, in my view, the relief sought would be inappropriate.

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<sup>20</sup> 1201.022 (Trustpower Limited), 425.035 (Federated Farmers), 998.001 (NZ Pork), 778.016 (Irrigation NZ), 479.014 (DOC), 548.016 (AWUG), 712.059 (Flaxbourne Settlers Association) and 715.017 (Forest and Bird)



375. The Horticulture NZ submission (769.015) and the Pernod Ricard submission (1039.010) seek amendment to the Policy to provide for an exception for water taken for capital root stock protection and crop survival water for drought intolerant food crops, in addition to water taken for domestic and stock purposes. And Horticulture NZ seek the addition of the following text to the explanation to the Policy – *“Water for capital root stock protection and crop survival water for drought intolerant food crops to ensure that they can be maintained in the event of a drought as such crops are not able to move in the event of a drought and the loss of the capital investment would have serious impacts on the Marlborough community.”* Further, Horticulture NZ seek additional definitions are sought to read as follows – *“Capital rootstock protection means water required to maintain survival of permanent horticultural crops in drought, no more than the equivalent of 50% of the total allocation of the consent holder”,* and *“Crop survival water means water for the survival of drought intolerant food crops excluding pasture, maize and animal feed crops. Water supplied for survival should be no more than 50% of the total allocation of the consent holder.”*
376. The submitters are of the view that Policy 5.2.5 provides for restrictions in times of water shortages and that the provision for a priority for capital root stock protection and crop survival water for drought intolerant food crops is akin to providing for animal drinking water in times of drought. These submissions have been assessed by Peter Davidson and Val Wadsworth, and the following is their advice –
- If exceptions are made for a particular water use that is seen by a party as essential for their business, then it erodes the purpose of the Policy, which is to reduce pressure on groundwater resources when they are stressed.
  - Wineries would be subject to restrictions during the early part of their processing and could also be seen as essential to the same industry.
  - It is uncertain what quantum of water is needed to sustain immature plants or rootstock in Marlborough and the impact on water resources could be significant.
  - The impact of such an exemption is unclear from the two submissions as Pernod Ricard indicate it would involve only a small planted area but the Horticulture NZ definition sought would appear to include all vines, fruit trees etc. If is a small area as Pernod Ricard suggest, would the storage of water suffice?
  - The Horticulture NZ category of drought intolerant food crops would also cover most process crops, e.g. Talley’s farms.
  - An allocation of 50% propose by Horticulture NZ would amount to large volumes.
  - Peter and Val are not comfortable about making further exceptions to this Policy, and it is recommended that the only exceptions be for providing water for the individual needs of humans and their stock.
377. Based on the advice received from Messrs Davidson and Wadsworth, and the potential implications of the enablement sought on water resources at times of low water flow/level, along with equitability concerns regarding other water users business risk, it is recommended that the relief sought is not accepted.
378. The Oil Companies submission (1004.002) seeks that the Policy is amended to add an exception for temporary and short term construction dewatering, the addition of the following sentence to the explanation to the Policy – *“Water taken for temporary and short term construction dewatering purposes is exempt from the policy due to its shallow take, non-consumptive water use and almost immediate return to the catchment”.* The submitter is of the view that, whilst it is appropriate to include permanent water takes it is unnecessary to also include temporary construction dewatering as, in terms of existing service stations undertaking a retanking, dewatering activities usually occur for between 5-10 days and are likely to occur only once on each service station in the 20 year lifetime of the MEP, with the take only being of shallow groundwater, with the lateral flow into the tank pit being stemmed

by sheet piling and with the water discharged almost directly back into the receiving environment.

379. This submission has been assessed by Peter Davidson, and the following is his advice –

- A specific exemption for dewatering may not necessary for several reasons. Firstly, the activity would normally be subject to resource consent and any specific local or seasonal issues would be addressed by condition.
- This activity is a non-consumptive groundwater use and unlikely to contribute to spring headwater recession, but if the activity were carried out under drought conditions it would be inappropriate to be exempt from ecological thresholds.

380. On the basis of my own assessment of the submission, and the advice of Mr Davidson, I do not recommend any changes in response to this submission. Comments elsewhere in this report about the appropriateness of the submitter's activities having Permitted status are also relevant.

381. The Fonterra submission (1251.004) seeks that the Policy is redrafted to achieve the following –

- (a) Differentiated proportional reductions in takes as flows fall in order to avoid any breach of an environmental flows (rather than total prevention of take when management flow and/or level set as part of an environmental flow is reached).
- (b) The differentiation referred to in (a) above to be based on the following descending order of priority:
  - i. Takes for non-consumptive uses, or for firefighting;
  - ii. s14(3)(b) RMA takes
  - iii. Stock watering supplies, takes for animal welfare and sanitation (including shed wash down and milk cooling), takes for perishable food processing, and takes for domestic or municipal supply.
  - iv. Class A takes
  - v. All other takes

382. Fonterra acknowledges the need to restrict takes during periods of low flow, however it considers it preferable to adopt a more managed approach to the imposition of restrictions such that there are proportional reductions as environmental flows are approached. Furthermore, Fonterra supports differentiation in the rates of reduction such that essential and vulnerable uses have preference over takes for less essential needs.

383. The approach of rationing is dealt with elsewhere in the Plan and is not appropriate to address here. This Policy requires the imposition of restrictions, whatever they may, if the restrictions were to be different, i.e. proportionally reduced, that would be addressed elsewhere but they would ultimately still be picked up through this Policy. With regards to the (b) part of the redrafting of the Policy, this is completely unnecessary. Matters i to iii for the most part do not require resource consent, so this Policy does not apply, or are provided with an exemption from the application of this Policy. The remaining matters already have restrictions applied at different stages to reflect the class of water. The M Sandall submission (275.001) similarly sought that water use be restricted, rather than a total cessation of take being required as she is of the view that more thought and research is needed to find a more workable "*water regulation*" for farmers during extreme dry periods.

384. One other matter in the submission that needs some consideration is the reference to takes for perishable food processing in part iii, for the reasons discussed in relation to the root

stock survival water above, it is not supported that water taken for perishable food processing be given any different treatment/exception.

385. The Fonterra submission (1251.004) also sought that the redrafted Policy it sought should also apply to restrictions on groundwater takes. I agree with this relief sought in part, as in my view, Policy 5.2.5 should be amended to also reference Policy 5.2.11, not only Policy 5.2.4. The Policy is equally relevant to the taking of water from aquifer dominated FMUs, and there is nothing in the wording of the Policy or its explanation, other than the reference to Policy 5.2.4, that suggests it was intended to only apply to river dominated FMUs. On this basis I have recommended acceptance in part for this submission, to the extent that the restrictions referenced in Policy 5.2.5 also apply to groundwater. The specific text changes recommended for the Policy are under the recommendations heading below. I further recommend that the Policy is moved to be immediately after Policy 5.2.12 so it is at the ending of the section on "*Setting of Environmental Limits*", as it does apply to water takes in all FMUs.
386. The FENZ submission (993.004) seeks amendments to the Policy to provide an exception for water taken for firefighting purposes, and to the explanation to the Policy for firefighting purposes (including training and emergencies). In the submitters view, the Policy fails to take into account the priority afforded to water supply for firefighting purposes under section 14(3)(e) of the RMA in the same manner as it does for water for domestic needs and animal drinking water.
387. I disagree with the assertion that the Policy fails relative to s14 as a consent is not required for fire-fighting purposes, therefore this Policy is not relevant to water taken for that purpose.
388. The B James submission (273.001), and the K Saville-Smith and B James submission (370.004) seek information rather than specific relief for which an assessment and recommendation can be made. The submitters seek clarity as to how multiple takes, some affected by this Policy and others not, taken through the same take point are to be managed. This is a matter that will be determined during the resource consent process, however this Policy signals that any domestic or stock component of a take for multiple purposes will not be subject to restrictions.
389. The Federated Farmers submission (425.773) seeks information rather than specific relief for which an assessment and recommendation can be made. The submitter wants information to be made available to resource users on the effects of the changes in management flows in the MEP, and any transition times provided for, to assist in understanding how these changes will affect resource users' reliability and certainty. Any assessment of a particular water users activity relative to restrictions needs to be made by the user with the assistance of appropriate professionals, however Council staff are available to discuss any changes in the regime itself from pre-notification to post-notification of the MEP. Significant changes to the environmental flows and levels covered by Schedule 3 were traversed with water users during the consultation on the water allocation and use planning framework.

### **Recommendation**

390. It is recommended that Policy 5.2.5 is retained as notified, with the exception of the following amendment –

*"With the exception of water taken for domestic needs or animal drinking water, prevent the taking of water authorised by resource consent when flows and/or levels in a Freshwater Management Unit are at or below a management flow and/or level set as part of an ~~environmental~~ **minimum** flow and/or level set in accordance with Policy 5.2.4 and Policy 5.2.11".*

391. It is further recommended that the Policy is moved to be immediately after Policy 5.2.12, so it is at the end of the section on “*Setting of Environmental Limits*”.

### Policy 5.2.6

392. Policy 5.2.6 reads as follows –

*“For rivers, establish whether the flow has reached the management flows set in the Marlborough Environment Plan on the basis of 24 hour averages (midnight to midnight).”*

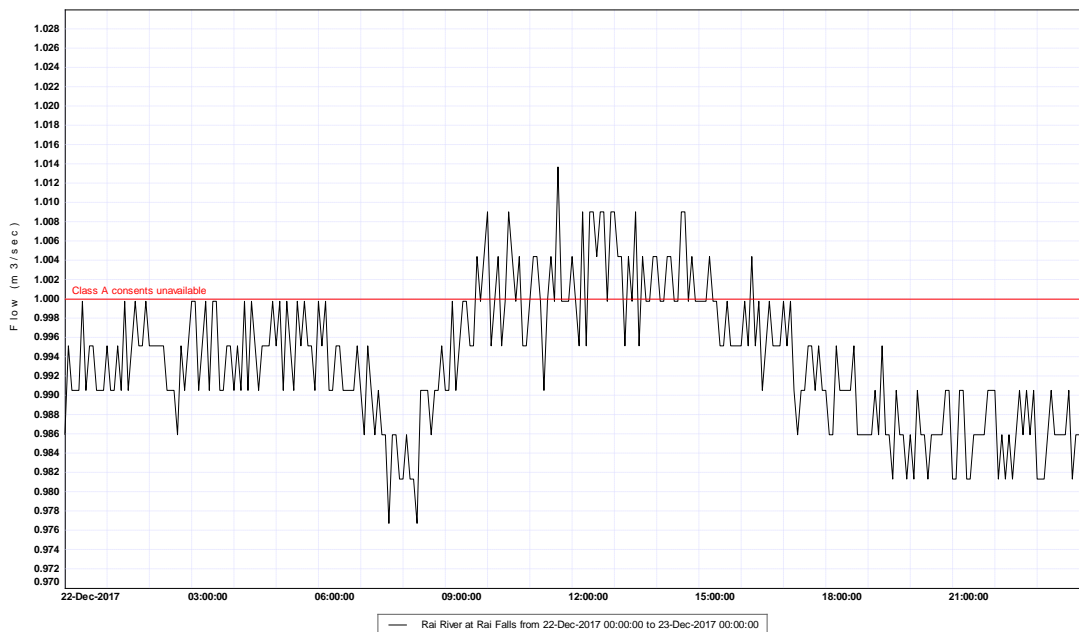
393. There are fourteen submissions<sup>21</sup> that support Policy 5.2.6 and seek its retention as notified.
394. The AWUG submission (548.017) seeks that an additional paragraph be added to the explanation to the Policy as follows – “*Based on the preceding 24 hour average (midnight to midnight), water abstraction will be subject to rationing or shut-off by 8.00am when river flows drop below the required management flow level or conversely water abstraction will not re-commence until 8.00am when river flows rise above the required management flow level*”. The submitter is of the view that the WAWG developed this Policy with the provision that when restrictions were being imposed on water abstraction that there needed to be a practical time that pumps need to be physically turned off, or when river flows lift above the required flow levels water abstraction, abstractions can re-commence. Further, the time of day needs to be practical for MDC Environmental staff to issue notice, irrigators to respond and MDC Compliance staff to then monitor.
395. I have concerns about this level of specificity in the explanation to the Policy, and in my view, the discussion in the WAWG process purposefully did not manifest itself as Policy. The additional paragraph sought would be better to either a method (perhaps part of Method 5.M.2 – Water User Groups), or a matter for guidance material/consent conditions. The concerns I hold are demonstrated somewhat by another submitter, Irrigation NZ (778.017) seeking similar relief but wanting restrictions to be imposed at 9.00am rather than 8.00am as sought by AWUG. In essence, the assessment for the AWUG submission is also valid for the Irrigation NZ submission, although it is noted that the latter sought an amendment to the Policy rather than the explanation.
396. The Fish and Game submission (509.037) and the EDS submission (698.016) seek that the Policy be amended so the basis for establishing whether the minimum flow has reached management flows is “*instantaneous basis by way of a hydrological model*” instead of the notified “*24-hour averages (midnight to midnight)*”. The submitters are of the view that the use of 24-hour daily flow averaging to assess when irrigation restrictions are triggered is problematic due to fluctuations in flow, sometimes large, over a 24-hour period, due to natural variance, abstraction and/or hydro generation, and that this is particularly problematic during periods of low flow and when large volumes of water have been allocated for abstraction. Using a 24-hour average flow can enable abstractive users to manipulate flows substantially below the minimum for significant periods of time. An instantaneous minimum flow can be implemented as a synthetic flow at particular points on the river through the adoption of a hydrological model that filters out the effect of fluctuating inputs into the mainstem Wairau from the Branch River hydro scheme, taking into account transit time, inputs from higher catchment recorders, and the existing recorder. The rules for this model should be written into the MEP by way of an Appendix, to ensure clarity, transparency, and consistency for all users.

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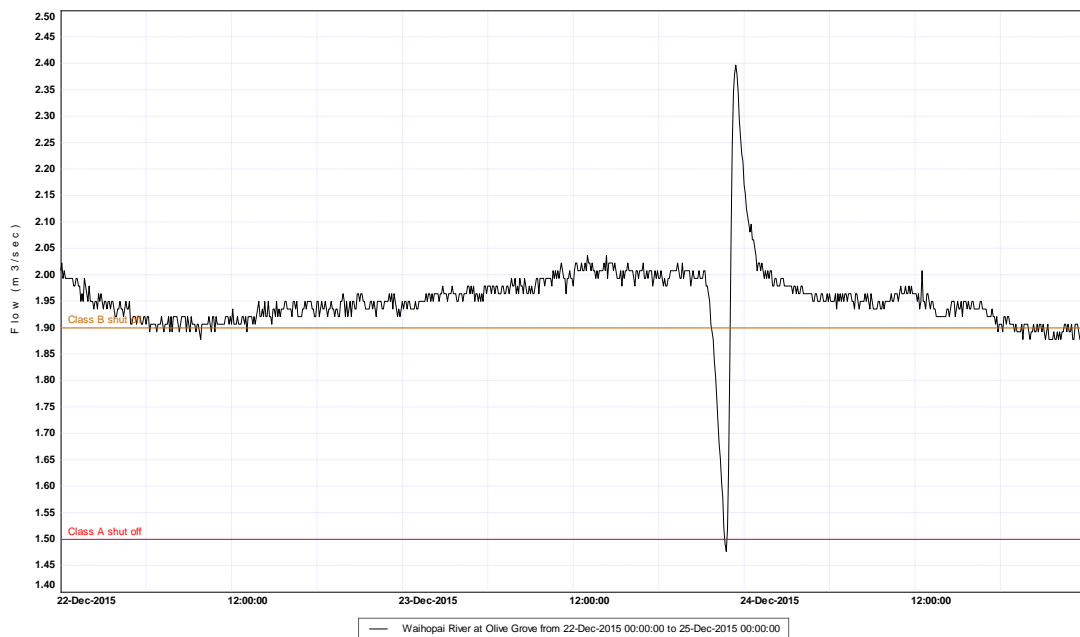
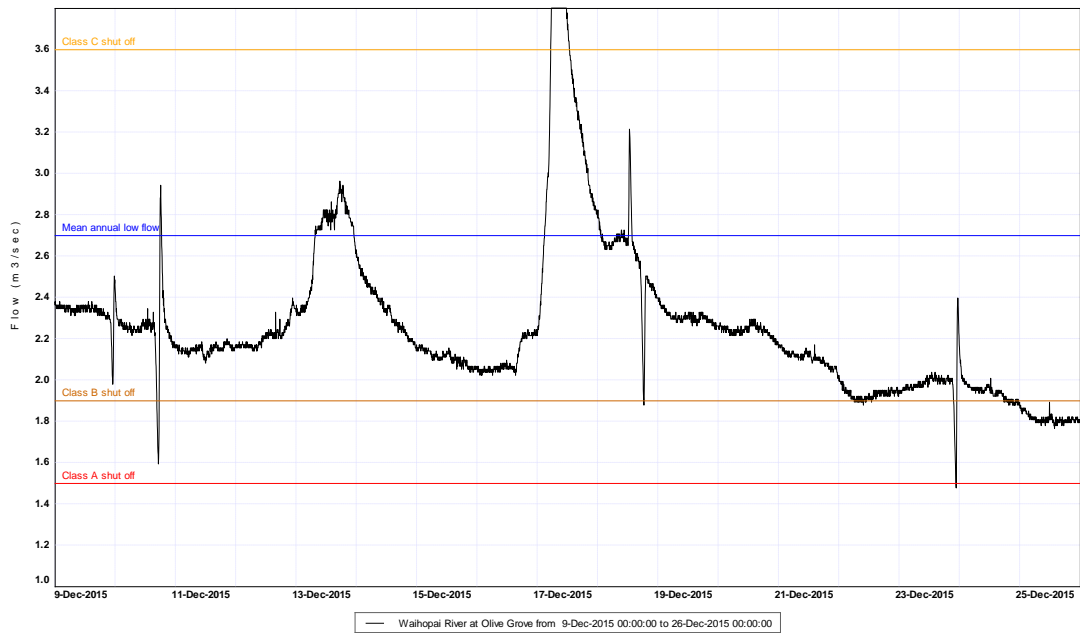
<sup>21</sup> 1201.023 (Trustpower Limited), 425.036 (Federated Farmers), 431.005 (Wine Marlborough), 457.005 (Accolade), 631.005 (Constellation), 1039.011 (Pernod Ricard), 1242.005 (Yealands Estate Limited), 462.047 (BRIL), 473.004 (Delegat Limited), 776.002 (Indevin Estates Limited), 909.005 (Longfield Farm Limited), 484.005 (Clintondale), 1218.005 (Villa Maria) and 715.018 (Forest and Bird)

397. These submissions have been assessed by Val Wadsworth, and the following is his advice. The graphs below (no text) have been repeated in Appendix 2, solely to enable report readers to see a larger view of the same graphs.

- There are a number of reasons why daily average flow was recommended by the WAWG, and subsequently adopted by Council.
  - Recorded flows in rivers do not drop in a steady linear fashion, due mainly due to slight water level fluctuations caused by wind, or turbulence. A fluctuation in water levels of just 1-2 mm can result in the recorded flows fluctuating either side of a specified cut-off level sometimes at very short intervals.
  - Rivers sometimes also often exhibit slight diurnal fluctuations due to daily catchment evapotranspiration variations. These diurnal fluctuations can result in a trigger level being marginally breached and reset on a daily basis.
  - An example of water level variation affecting recorded flows at Rai Falls is shown on the graph below.



- The Waihopai River quite regularly experiences significant spikes in flow as a result of the Waihopai Power scheme tripping off due to faults. The spikes can be upward, downward, or both, and usually have a magnitude of more than 0.5m<sup>3</sup>/s, but a duration of less than 2 hours. The spikes are such that they can cause the Waihopai River status to go from class A and B both being available, to neither being available within half an hour, then resetting just an hour or so later. Examples of this is shown on the graphs below, the second, enlarged graph also shows significant instances of recorded flow fluctuating either side of the threshold due to minor changes in level.



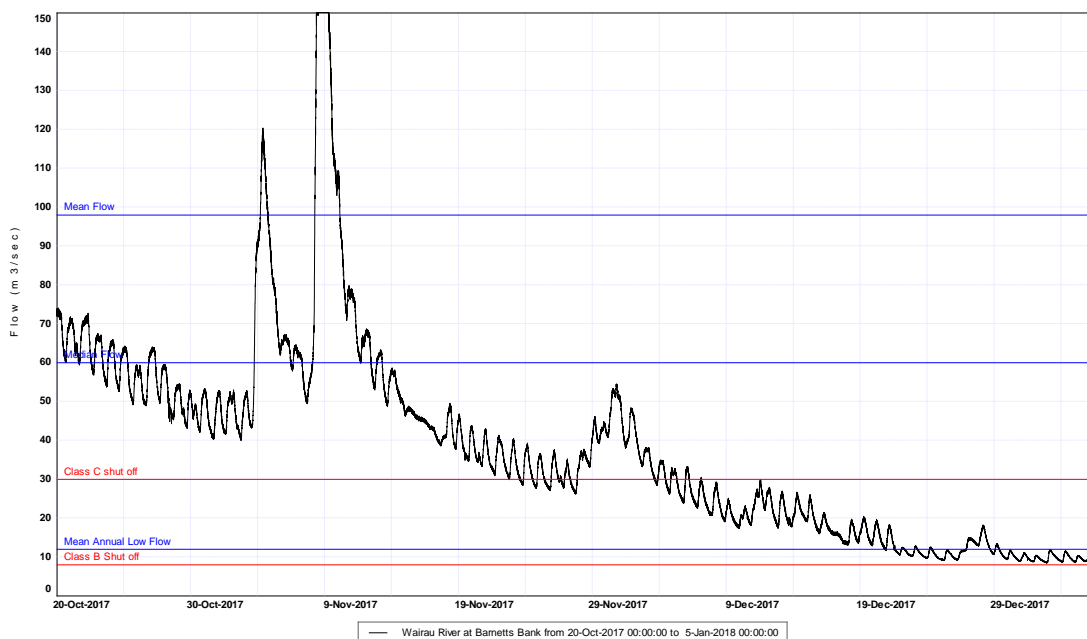
- The variable and often unpredictable timing of shutoffs makes it difficult for both users and compliance staff to monitor and react immediately. It was felt that a specified period would allow users to check what their status was at a set time each day, and respond accordingly. Likewise compliance staff would have a clear expectation of when users should have complied, allowing follow up on a “no excuses” basis.
- The Wairau River, with its hydropeaking characteristic is a special case, and is discussed in more detail below;
- Wairau River hydropeaking – a special case

Background – Branch Hydro Electric Power scheme (HEPS)

- The Branch HEPS was constructed in 1983 by the Marlborough Electric Power Board (MEPB) as a local generation initiative and subsequently purchased by Trustpower Limited about 1998. Water is diverted from the Branch River, about 4km

upstream of the Wairau River confluence and taken via canal to the Argyle holding pond. From here it passes through the Argyle power station, then on to the Wairau power station, before being discharged to the Wairau River approximately 7km downstream of the Wairau-Branch confluence.

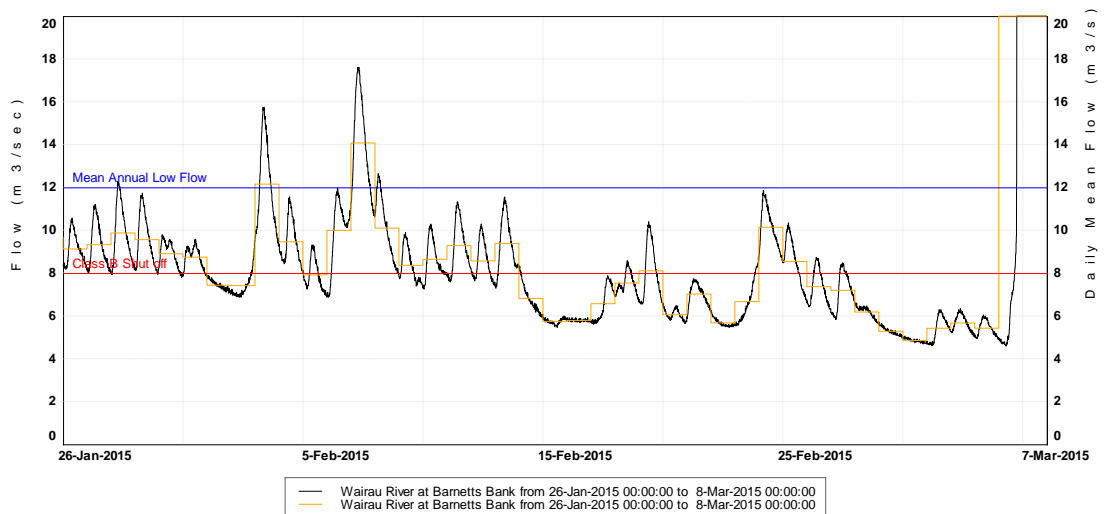
- The HEPS is described by Trustpower Limited as “run of the river, with daily storage”. Maximum generating capacity is 20m<sup>3</sup>/s; this has a flow exceedance of approximately 25%, which means that for 75% of the time generation is limited by water availability. Consequently the scheme is usually operated at times of peak power demand, using the Argyle pond as buffer storage for the scheme. Generation in median flow situations will typically operate during daylight hours when demand is higher. As inflows drop, the length of daily generation reduces, and in low flow conditions may even switch to twice daily generation for the short high demand periods early and late in the day.
- These daily cycles of generation result in the Wairau River receiving pulses of water, an effect known as hydropeaking. The initial magnitude of the pulses entering the Wairau River is up to 20m<sup>3</sup>/s at higher flows, and 10-12m<sup>3</sup>/s at lower flows. These pulses gradually attenuate as they travel down the approximately 67km of river to the MDC recording station at Barnettts Bank, just upstream of State Highway 1, resulting in observed pulses of around 10m<sup>3</sup>/s at higher flows, and 3-4m<sup>3</sup>/s at lower flows at that site.
- The hydropeaking effect as recorded at Barnettts Bank over a typical recession is shown on the graph below.



The effects of hydropeaking on managing Wairau River FMU water restrictions

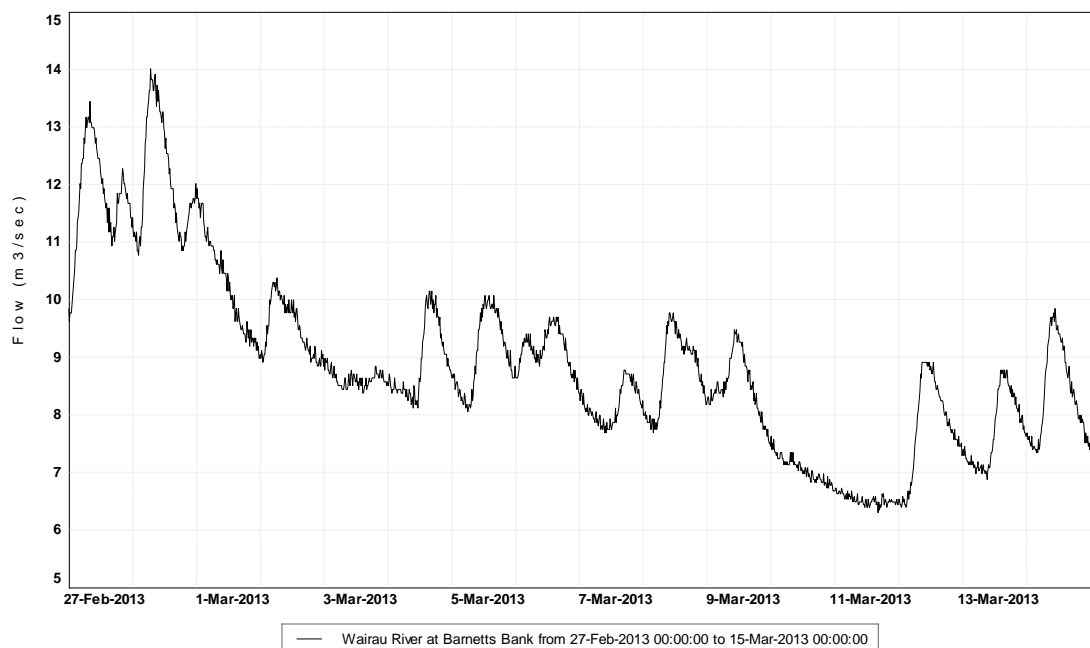
- As can be seen from the previous graph the hydropeaking effects cause the recorded river flow to fluctuate significantly either side of a given threshold (class C in this case) on a daily basis for a number of days before finally being consistently below the threshold.
- If managed on an instantaneous basis, some of these shutoffs would be only hours long, giving little time for users to react to and shut down their systems. To complicate matters further, the users who are affected by these shutoffs are all between 6 and 18 hours flow time upstream of the monitoring site, meaning the shutoff would probably not stop the flow falling below the shutoff threshold, rather it

is likely to slightly increase the magnitude of the hydropeaking effect which is not beneficial.



The graph above shows both instantaneous and daily average flows, and the timing and duration of shutoffs which would result from each method.

- One further peculiarity of operating a power generation scheme which targets peak power generation prices on the market is that there is lower electricity demand, and therefore lower prices, during weekends. Consequently, during low flow periods Trustpower Limited often choose not to generate during the weekend, but instead retain all allowable Branch inflows in the Argyle pond. This stored water is then used for generation during the week allowing slightly higher generation rates when spot power prices are higher. The graph below shows the results of weekend hold backs on the following days;
  - 3 March 2013 (Sunday)
  - 10-11 March 2013 (Sunday-Monday)



- As the graph shows the result of holding back 3-5m<sup>3</sup>/s of Branch flow is to cause a significant drop in flows in the Wairau River the following day, typically Sunday and/or Monday. This can artificially force flows below the cut-off threshold as is the



case here on 10-11 March. The effects of a prolonged holdback on instream biota is arguably worse than the shorter term effects of the daily, or twice daily hydropeaking fluctuations which submitters are concerned with. However no submissions were received on the effects of holding back water, either through the MEP process, or during the 1999 replacement of the Trustpower Limited consent.

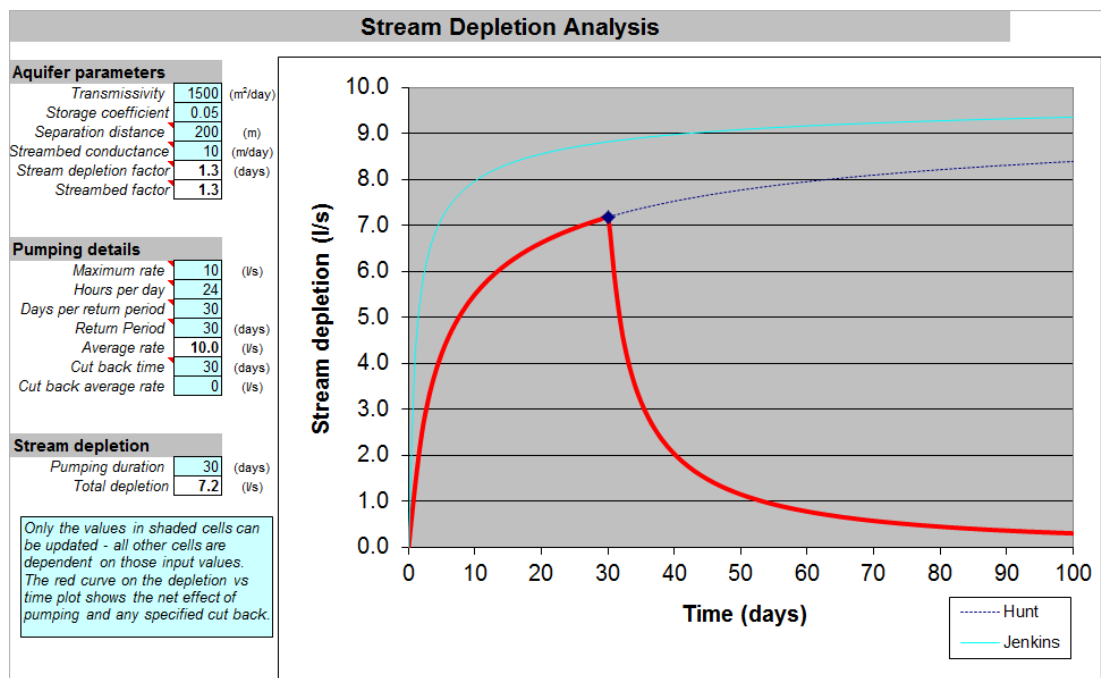
#### Hydrological Modelling

- Two opposing submitters have proposed that for the Wairau River, that a hydrological model of all inputs, including the variable Branch River generation input, be developed to model the downstream flow, and that abstractions should be limited based on this modelled flow to allow abstraction to be controlled on an instantaneous basis. No similar provision is proposed for any other rivers.
- Such a model would need to use seven existing flow recorders; Dip Flat, Branch, Goulter, Ōhinemahuta (Onamalutu), Waihopai, Gibsons Creek-Waihopai, and Gibsons Creek-Wairau. In addition, a new recorder would need to be installed on the outlet channel below the Trustpower Limited HEP scheme to monitor the generation flows (unless Trustpower Limited can provide suitable generation data, which they may not wish to do, as their real time generation data is considered commercially sensitive). Developing an accurate reliable model from these sites would be challenging to say the least. In particular, modelling the impact of the Trustpower Limited input, which will attenuate over time and distance will be difficult. Another north-bank Wairau tributary site may also be required, as previous experience with basic modelling of low-medium flows down the length of the Wairau has shown that the variable north bank inputs are hard to account for. This was well canvassed at the Trustpower Limited Wairau hearing in 2006, and agreed by the various hydrology experts at that time.
- In addition to all of these inputs and outputs, the losses from the Wairau River to the Wairau Aquifer would also need to be accounted for in the model. This in itself is a major hurdle, as the mechanism for, and magnitude of losses to the Aquifer is still not fully understood. There is an ongoing study into the current decline in the Wairau Aquifer, with associated investigations into the recharge mechanism. Currently no reliable method of assessing or modelling the losses in real time has been developed.

#### Stream Depletion effects of groundwater takes

- Most Wairau River takes are actually wells or galleries pumping groundwater, sited at some distance from the river. This is partly to remove the pumping infrastructure from the dangers of the river, and partly to avoid the sediment issues associated with river water. These groundwater takes have been included as part of the Wairau River FMU to allow a whole of catchment management system. Groundwater takes from wells or galleries at some distance from the river will have a lagged and buffered effect on the river due to the water storage available in the alluvial sediments. Any shutoffs will also be lagged and buffered to some degree, meaning the effect of shutoff will not be instantaneous; instead the reduction in stream depletion will increase gradually over time, hours or even days depending on distance from the river.
- Should a model of flows actually be able to be developed, the actual stream depletion effect of the groundwater takes would then need to be accounted for. Because of the storage effect of the aquifer, a groundwater take does not have a 100% effect on an associated nearby surface water body. As a consequence the recovery effect on the river is also not instantaneous or full value. In past shutoffs there have been no obvious and immediate recovery effects on the surface flow of the Wairau River.

- As part of the model it would be necessary to derive an individual stream depletion model for each of the approximately 160 takes, which may need to be verified by pump testing. The real time water take data for each abstraction would need to be continuously run through the model to determine the ongoing stream depletion effects likely to occur in the river. The stream depletion parameters for each take would vary over time according to distance from the wetted river channel, which may change as the river migrates naturally within its active bed area. This would require occasional adjustment of the model, sometimes during irrigation seasons.
- A simple stream depletion effect and recovery graph is shown below. Parameters have been set to represent a typical Wairau Valley riparian aquifer, using a pumping rate of 10 litres per second (L/s), and at a distance of 200 metres from the surface water channel. After 30 days continuous pumping at 10L/s it shows that 7.2L/s is being induced from the river, the remaining 2.8L/s being derived from storage. The shape of the recovery curve after shutoff shows that after 1 day the steam depletion has reduced to 5.9 L/s, which is a benefit of just 1.3L/s for the river.



- A range of 30 day stream depletion values and 24 hour recovery values for varying distances is shown below to illustrate the effect of separation distance between the take point and the river channel.

| Separation distance (m) | 30 day depletion L/s | Depletion after 24 hours recovery L/s | Benefit to river flow L/s |
|-------------------------|----------------------|---------------------------------------|---------------------------|
| 1                       | 8.3                  | 4.1                                   | 4.2                       |
| 50                      | 8.0                  | 4.7                                   | 3.3                       |
| 100                     | 7.7                  | 5.2                                   | 2.5                       |
| 200                     | 7.2                  | 5.9                                   | 1.3                       |

- These figures show that ceasing pumping will not result in an immediate or full value recovery in the river, and further that the buffering effect also means that the pumping at 10L/s does not result in an equal effect on the river.

Summary

- The logistics of requiring and enforcing shutoffs on an instantaneous basis on most of Marlborough's rivers are quite demanding. Council would need to be convinced of the benefits to the instream biota before considering moving to such a system, as it would require significant additional resources to provide what would effectively be minute to minute operational management of these resources.
- A hydrological model for the Wairau River as suggested by the two opposing submitters would be very complex; it may not even be possible to build such a model. If such a model could actually be built it would make a complicated management system even more complicated, and place very high reliance on the 24/7 maintenance of all of the recorders contributing to the model.

Recommendation

- That policy 5.2.6 remains unchanged.

398. These submissions have also been assessed by Peter Hamill, and the following is his advice

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- Peter disagrees with the submissions from EDS and Fish and Game in regards to requesting instantaneous cut-offs rather than 24 hour averages. Both of the submitters suggest that a hydrological model should be used to determine when the cut off occur. The difficulty with using a model is that any model is only a theoretically reflection on what would actually happen in reality. To develop a model that would be accurate enough to ensure that irrigators were not turned off too early or too late would require the collection of a large dataset of information collected over a large number of years. A models output is only as good as the data that it is based on. Irrigators would be very upset if a model cut off their water take and through some unpredicted event, such as a small thunder shower in the headwaters of a catchment, the actual water levels did not meet the trigger level.
- A river does not recede in a smooth completely linear fashion but instead fluctuates in level through a variety of influencing factors such as wind, sun and evaporation rates. If an instantaneous cut-of is used a river approaching its cut-off level can fluctuate above and below the trigger level. This would require the irrigators to turn their irrigators on and off throughout this period.
- The animals that live on the shallow margins of waterways are adapted to deal with minor fluctuations however if the cut-offs result in bounce back of flow and a series of on and offs the fluctuations of the river margins may be substantial and result in stranding of aquatic life.

399. Based on the advice of Messrs Wadsworth and Hamill, it is recommended that the relief sought by Fish and Game, and EDS with regards to Policy 5.2.6 is not accepted.

**Recommendation**

400. It is recommended that Policy 5.2.6, and its associated explanation, is retained as notified.

Policy 5.2.7

401. Policy 5.2.7 reads as follows –

*“Where there is insufficient environmental data to establish the flow requirements of natural and human use values, use a default minimum flow of 80% of the seven day mean annual low flow for rivers with a mean flow greater than 5m<sup>3</sup>/s and 90% of the seven day mean annual low flow for rivers with a mean flow less than 5m<sup>3</sup>/s.”*

402. There are eight submissions<sup>22</sup> that support Policy 5.2.7 and seek its retention as notified.
403. The Federated Farmers submission (425.037) seeks retention of this Policy as notified, however is of a view that it should be combined with Policy 5.2.14 for clarity and in the interests of ensuring this Chapter is succinct.
404. The relief sought would be entirely inappropriate as the purpose of this Policy is to set minimum flows and the purpose of Policy 5.2.14 is to set allocation limits.
405. The Horticulture NZ submission (769.016) seeks the removal of “natural and human use” from this Policy as it is of a view that the Policy should just refer to “values”. This submission echoes similar concerns raised against preceding provisions, therefore I will not repeat my assessment but note that I do not support the relief sought.
406. Overall it is noted that there is no fundamental opposition to this Policy, only some concerns about its placement and the specific reference to values.

### **Recommendation**

407. It is recommended that Policy 5.2.7, and its associated explanation, is retained as notified.

### **Policy 5.2.8**

408. Policy 5.2.8 reads as follows –

*“Consider proposals to set a minimum flow for a river that varies from the default minimum flow established by Policy 5.2.7 on a case-by-case basis, including through the resource consent process. Policies 5.2.1 to 5.2.4 will be utilised to assist the determination of any such proposal.”*

409. There are nine submissions<sup>23</sup> that support Policy 5.2.8 and seek its retention as notified.
410. The Pernod Ricard submission (1039.013) seeks that the Policy be amended to clarify how this will work in practice as the Policy does not state how the minimum flows (in Appendix 6) would be changed - presumably a plan change would be required, but clarification is required in this regard. The submitter notes that it supports this Policy insofar as it signals willingness on the part of the Council to receive evidence and revise its minimum flows accordingly.
411. This Policy offers any resource consent applicant that would be subject to the restrictions on their water take under the default in Policy 5.2.7 (i.e. there is no limit in Appendix 6), to instead provide information around using an alternative minimum flow). This Policy extends to any person that would be involved in that consenting process, so the alternative may be offered by an affected party, for example. Whether the alternative, if granted, is added to Appendix 6 will be determined at a later time, however if it was it would be done either via a plan change or at the time of the next plan review. In my view, this Policy does not require amendment.
412. The Fish and Game submission (509.039) and the EDS submission (698.017) seek the removal of this Policy in its entirety, and a replacement Policy be added to ensure that changes cannot be made to limits without a plan change. The submitter is of the view that the NPSFM specifies that minimum flows form a limit, and that limits are not to be exceeded, it is therefore inappropriate to vary a limit through the resource consent process. Further,

<sup>22</sup> 479.015 (DOC), 509.038 (Fish and Game), 548.018 (AWUG), 778.018 (Irrigation NZ), 1201.024 (Trustpower Limited), 1039.012 (Pernod Ricard), 484.006 (Clintondale) 1002.017 (NZTA) and 715.019 (Forest and Bird)

<sup>23</sup> 425.038 (Federated Farmers), 479.016 (DOC), 676.020 (Dairy NZ), 717.021 (Fulton Hogan), 548.019 (AWUG), 778.019 (Irrigation NZ), 1201.025 (Trustpower Limited), 1002.018 (NZTA) and 715.020 (Forest and Bird)

under the NPSFM a minimum flow is a non-derogable limit which is set to achieve the values attributed to the waterbody which must include ecosystem health.

413. The default limit in Policy 5.2.7 is not a limit set to achieve the values attributed to the waterbody, as it is a default used in the absence of resource specific information. The Council has to set limits, and in the case of these waterbodies those limits will be set by way of the default, or through a resource consent process. The consent process will actually identify the values and hydrological information for the specific water resource, and enable input from other parties, such as other water users, iwi, environmental groups that may even determine that the default is not sufficient to protect values. In my view, this Policy should remain, and I would have expected it was to the submitters advantage that it does as, if only the default applies, they would most likely not be involved any further in the limits applied to that resource consent, which may be to the determinant of natural and human values they seek to protect. It is also important to keep in context that this Policy will only apply to water resources that have no limits in Appendix 6, of which there are very few, and even less that are likely to have any future water demand associated with them.

### **Recommendation**

414. It is recommended that Policy 5.2.8, and its associated explanation, is retained as notified.

### **Policy 5.2.9**

415. Policy 5.2.9 reads as follows –

*“Have regard to the adverse effects of the proposed instantaneous rate of take from any river, except an ephemeral flowing river, if that rate of take exceeds or is likely to exceed 5% of river flow at any time.”*

416. There are six submissions<sup>24</sup> that support Policy 5.2.9 and seek its retention as notified.
417. The Federated Farmers submission (425.039) seeks that this Policy is amended so it does not apply to water takes to domestic and stock purposes. The submitter does not really provide any rationale for the change sought, except to say the Policy should not apply to Section 14(3)(b) takes for domestic and stock drinking water, which are provided for under the RMA. From a planning perspective, I note that 14(3)(b) enables these types of takes if *“the taking....does not, or is not likely to, have an adverse effect on the environment”*.
418. Val Wadsworth has considered this submission and in his view it seems reasonable that stock and domestic abstractions which may exceed a certain percentage of a surface flow should be subject to some scrutiny, particularly to mitigate the possible cumulative effects of multiple takes on one river or stream. Allowing takes of any magnitude from a surface water body without constraint could see a large farm abstract water for their whole property from one small, conveniently located water source (e.g. near power) to the detriment of that waterbody. It can be debated as to whether 5% is the appropriate figure, but in Val's view there need to be some checks and balances on all takes to ensure protection for water resources. It is also noted that this Policy is a continuation of the Permitted Activity standards contained in the WARMP.

419. The DOC submission (479.017) seeks that this Policy replaced as follows –

*“Where a minimum flow has not been set for a tributary in Appendix 6, then either:  
a) a residual flow shall be set for that tributary at 90% of 7dMALF if there is not a robust relationship between the flow record in the mainstem of a river; or,*

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<sup>24</sup> 676.021 (Dairy NZ), 548.020 (AWUG), 778.020 (Irrigation NZ), 1201.026 (Trustpower Limited), 1039.014 (Pernod Ricard) and 715.021 (Forest and Bird)

*b) if there is a robust relationship between the tributary and a minimum flow site listed in Appendix 6, then the take will be required to comply with that site's minimum flow."*

The submitter is of the view that it is important to manage the adverse effects on freshwater habitats in the vicinity of the point of take and to maintain natural character, surface flow and flow connection. Further, where a take is from a tributary linked to a mainstem river, minimum flow and the relationship between flows in the mainstem and the tributary is not robust, then in that case it would be appropriate to require a residual flow.

420. Val Wadsworth has considered this submission and we are in agreement that the relief sought is covered in other provisions. It is possible that the Policy has been misunderstood by the submitter but they may clarify at the hearing.
421. The Fish and Game submission (509.040) seeks that this Policy retain the policy with amendments that avoid adverse effects on any waterbody from an instantaneous rate of take. The submitter is of the view that having regard to adverse effects does not provide any protection or mitigation to waterbodies from the instantaneous rate of take, and that the Policy does not provide sufficient direction for decision makers.
422. Val Wadsworth has considered this submission and we are in agreement that the purpose described is what this Policy is supposed to do, and that no wording changes are suggested so it is difficult to assess this submission any further. The part of the Fish and Game submission relation to the exclusion of ephemeral rivers from the Policy is addressed below. EDS have lodged a similar submission (698.018), in essence holding a view that "*have regard to*" is weak and gives too much discretion, and the Policy should instead state decision makers "*must consider*".
423. The NZTA submission (1002.019) seeks that this Policy is amended to remove the text "*or likely to exceed*" as it is of the view that the wording of this Policy differs from similar Permitted Activity standards (e.g. Standard 2.3.10.1), and should be amended to align with the Rule.
424. In my view, Policy 5.2.9 does not only apply to Permitted Activity standards, and therefore it is appropriate as the wording supports the consideration of resource consent applications too. In drafting a standard on a Permitted Activity, certainty is sought within the language so in that context not including the phrase "or is likely to exceed" is appropriate but resource consents are usually required for activities with more significant effects so the broader consideration is appropriate in that context. The relief sought is not supported.
425. The Fish and Game submission (509.040) raises concerns that this Policy potentially sets up two classes of river, permanently flowing rivers and those that are ephemeral, and creates the risk of a more lax environmental management regime for those rivers. EDS have lodged a similar submission (698.018).
426. In my view, and considering the general content of many of its submissions, Fish and Game has not fully appreciated the difference between permanently flowing, intermittently flowing, and ephemeral. In general, when the submitter is referring to ephemeral rivers, they appear to have what the Plan considers to be intermittently flowing rivers in mind. Val Wadsworth has considered this submission and notes that submitters concerned for the health of ephemeral rivers should first read the definitions of perennial, intermittent, and ephemeral rivers. In MEP, the MDC has split what was previously a broad range of non-perennial rivers into two classes, intermittent, and ephemeral. This is in response to many applicants implying that because a river was ephemeral, it had no values, even though it may actually flow for 6-9 months of the year. Rivers which flow for reasonable lengths of time now fall under the new definition, intermittent, which better describes their characteristics and values. These rivers may be either intermittent over time, reach, or both. The term ephemeral is now

reserved for those streams which flow only briefly immediately after rain, more in line with the true definition of the word ephemeral (lasting for only a very short time, brief, fleeting).

427. As ephemeral rivers do not have any sort of regular flow for which values are associated, it would be inappropriate to include them in Policy 5.2.9.
428. The Fonterra submission (1251.005) does not seek any specific relief for which an assessment and recommendation can be made but seeks clarification about what sort of rivers Policy 5.2.9 does, and does not, apply to as in its view the provision appears to exclude ephemeral streams, however the explanation to the Policy suggests that it only applies to perennially or intermittently flowing rivers. It is not clear why the submitter is confused as, by its own submission, it demonstrates that the Policy does not apply to ephemeral rivers but does apply to perennially and intermittently flowing rivers. The discussion above regarding the definitions of the three different types of river hopefully assist the submitter.

### **Recommendation**

429. It is recommended that Policy 5.2.9 is retained as notified.
430. It is recommended that the explanation associated with Policy 5.2.9 is amended, please see the next section of the report immediately following for the full discussion and recommendation regarding this change.

### **Standards 2.3.1.1, 2.3.2.2, 2.3.4.1, 2.3.5.1, 2.3.6.1, 2.3.13.2 and 2.3.14.1**

431. Standards 2.3.1.1, 2.3.2.2, 2.3.4.1, 2.3.5.1, 2.3.6.1, 2.3.13.2 and 2.3.14.1 are all standards on Permitted Activity water takes, they all read as follows –

*“Where the take is from a river, except an ephemerally flowing river, the instantaneous take rate must not exceed 5% of river flow at any time”.*

432. It should be noted that there is support for the retention of the notified rules that these Standards are part of, so essentially there are submissions seeking these Standards are retained as notified.
433. The Fish and Game submissions (509.206, 509.207, 509.212, 509.213, 509.215 and 509.228) seek an amendment to Standards 2.3.1.1, 2.3.2.2, 2.3.4.1, 2.3.5.1, 2.3.6.1 and 2.3.6.1 to ensure that the cumulative effects of multiple takes are addressed and that the Standards also apply to ephemeral rivers. Fish and Game seek to include conditions on the Permitted Activity take for domestic needs that requires a restriction on the maximum number of takes in a water resource unit, the stopping of water takes at extreme low flows, and for each Permitted Activity the take location and amount of take is reported to the Council to ensure that the Council can understand and monitor the extent of cumulative effects from Permitted Activity domestic takes. In addition, the submitter seeks for the Standards to also apply to ephemeral rivers. With regards to the inclusions of ephemeral rivers, this is the same as relief Fish and Game sought for the related Policy 5.2.9 above, and the assessment and recommendation is therefore also the same in this regard.
434. It is challenging to understand how the proposed new standards would work in practice generally, and history has shown us that standards of this nature on Permitted Activities do not work. Realistically, if all domestic water users are required to record their water use and provide the Council with use data as proposed by the submitter, then it would be best to require a consent for the activity if any significant degree of compliance is to be expected. Another factor to consider if there was an effective way in which to require records via the Permitted Activity, is that the Council cannot charge for monitoring this type of activity. The

mechanism for restricting the number of domestic takes in an FMU is really through limiting subdivision and development, and there are some provisions of this nature in the MEP.

435. Val Wadsworth has considered these submissions and provided the following advice. The cumulative effects of small takes may be important in some catchments, and that is exactly why a small value such as 5% is appropriate, as it allows many takes before effects would be realised. The management and monitoring of small domestic and stock water takes would be very onerous for what may be little gain. There is no evidence that such takes are causing issues, except perhaps in small streams in the Marlborough Sounds with numerous individual takes for dwellings, and in such cases the problem is likely to be the result of non-compliance with the Permitted Activity Standard. Val concurs with the above comments regarding monitoring issues with the relief sought.
436. The Surveyors submissions (996.014, 996.015, 996.016, 996.017 and 996.018) seek an amendment to Standards 2.3.1.1, 2.3.2.2, 2.3.4.1, 2.3.5.1 and 2.3.6.1 to change the take rate that must not be exceeded from 5% to 20% of river flow, as the submitter is of the view that 5% is too low and it is often impossible to prove a take in small streams will be less than 5% of the minimum flow, however, the maximum take is generally low in any case.
437. Val Wadsworth has considered these submissions and provided the following advice – as noted in relation to earlier submissions, the 5% standard allows many takes before abstractions become an issue for stream health. A figure of 20% is considered far too high, cumulative effects, particularly in Sounds streams could quickly become an issue. The question of measurement is interesting, 20% would be easier to measure than 5%, which is almost within the margin of error, but that's effectively what Policy 5.2.9 is saying - only take a little bit, so little that it is not really noticeable.
438. The DOC submission (479.155 – part) seeks the deletion of Standard 2.3.14.1 (as part of deleting Rule 2.2.15, which permits the take, use and discharge of surface water for non-consumptive uses), or amend the Standard to further limit takes so that it is clear that the take does not exceed 5% of the flow at the point of abstraction at the time of abstraction. The reason given for relief sought is to ensure the effects of the activity are minimised.
439. Val Wadsworth has considered this submission but finds the submission to be somewhat confusing and the concerns not particularly clear. Subject to further evidence at the hearing, Val and I are not persuaded by the submission to amend the Standard.
440. The Fonterra submission (1251.119 - part) seeks an amendment of Standard 2.3.14.1 (as part of a submission on Rule 2.2.15) to change “river” to “surface water”. No reason is given for the change sought. The relief sought is not supported.
441. In considering the submissions on these Standards, Val Wadsworth has identified a potential amendment to the explanation to Policy 5.2.9, which may clarify the suite of provisions. In my view, the amendment he suggests does not change the substance of the Policy and, if not within scope, may be suitable to undertake as a minor amendment. Val recommends the following amendment to fourth sentence of the explanation –

*“This policy allows decision makers to have regard to the adverse effects of an individual take in certain circumstances, irrespective of the minimum flows established in the MEP. ~~The,~~ **where the** proposed rate of abstraction ~~must be~~ **is** calculated to exceed 5% of the river flow at the point of abstraction.”*

### **Recommendation**

442. It is recommended that Standards 2.3.1.1, 2.3.2.2, 2.3.4.1, 2.3.5.1, 2.3.6.1, 2.3.13.2 and 2.3.14.1 are retained as notified.



443. It is recommended that the fourth sentence of the explanation to Policy 5.2.9 is amended as follows –

*“This policy allows decision makers to have regard to the adverse effects of an individual take in certain circumstances, irrespective of the minimum flows established in the MEP. ~~The,~~ **where the** proposed rate of abstraction ~~must be~~ **is** calculated to exceed 5% of the river flow at the point of abstraction.”*

#### Policy 5.2.10

444. Policy 5.2.10 reads as follows –

*“Have regard to the importance of flow connection to maintaining natural and human use values when considering resource consent applications to take water from intermittently flowing rivers, including:*

*(a) the timing and duration of that flow connection;*

*(b) the physical extent of any disconnection in flow; and*

*(c) any adverse effects on connected aquifers.”*

445. There are four submissions<sup>25</sup> that support Policy 5.2.10 and seek its retention as notified.

446. The DOC submission (479.018) seeks an amendment to (b) in this Policy as follows – “(b) *the physical extent of any disconnection in flow **and the potential for that to disconnection to be exacerbated by abstraction; and***”. The submitter is of the view that the addition sought is a relevant matter that should be included in the Policy.

447. In my view, the amendment is unnecessary, the Policy relates specifically to a resource consent application to take water, and it specifies matters that a decision maker is to have regard to in terms of effects, I am not clear on how the relief sought would not already be covered in the Policy, is it not the point of an assessment of environmental effects to assess the effect of an activity on the environment, in this case specifically relative to flow connection/disconnection. Peter Hamill has considered this submission and agrees with my assessment and recommendation.

448. The Fish and Game submission (509.041) seeks an amendment to the Policy to that ensure that the values of intermittently flowing rivers are recognised and protected. The submitter is of the view that, while the Policy takes into account the connectivity of waterbodies and the contribution that intermittently flowing rivers make to hydrology in other waterbodies, it also needs to ensure that the values of the intermittently flowing rivers are also recognised and protected.

449. In my view, the Policy already does this as it specifically relates the importance of flow connection to “*maintaining natural....values*”.

450. The Fonterra submission (1251.006) seeks to retain the Policy on the proviso that the term “*human use values*” is defined as sought by Fonterra, or if “*human use values*” is not defined as sought by Fonterra, amend the Policy to ensure that regard is had to any effects on consumptive users. The submitter is of the view that, as noted elsewhere in its wider submission, it opposes the prioritisation of “*human use values*” over other consumptive use values.

451. The discussions on the inclusion of “*human use values*” have been traversed elsewhere so I will not repeat that again. This Policy is about flow connection, and considerations during a consenting process in that regard, it does not limit (or direct) the consideration of other matters, such as effects on other consented water users, by decision makers.

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<sup>25</sup> 548.021 (AWUG), 778.021 (Irrigation NZ), 1201.027 (Trustpower Limited) and 715.022 (Forest and Bird)

452. The Ngāi Tahu submission (1189.040) seeks amendments to the Policy to add two new matters – “*any effects on mahinga kai*” and “*through monitoring flows*”. The submitter is of the view that the amendments are proposed to ensure that effects on mahinga kai are considered, to pull through into the Policy, relevant matters from Chapter 3.
453. In my view, the addition of the reference to mahinga kai is not necessary as it is part of the “*natural and human use values*” that this Policy is protecting, and the earlier provisions in this section on Chapter 5 show this. With regards to the addition of “*through monitoring flows*”, I am not clear what this means and there is no discussion in the submission to assist with understanding, the submitter may be able to elaborate in evidence.

### **Recommendation**

454. It is recommended that Policy 5.2.10, and its associated explanation, is retained as notified.

### **Policy 5.2.11**

455. Policy 5.2.11 reads as follows –

*“Set specific minimum levels for Freshwater Management Units dominated by aquifers to:*

*(a) prevent physical damage to the structure of the aquifer;*

*(b) prevent headwater recession of spring flows;*

*(c) prevent a landward shift in the seawater/freshwater interface and the potential for saltwater contamination of the aquifer;*

*(d) maintain natural and human use values of rivers and wetlands where groundwater is physically connected and contributes significantly to flow in the surface waterbody;*

*(e) maintain groundwater quality; and*

*(f) prevent long-term decline in aquifer levels that compromises the matters set out in (a) to (e).”*

456. There are twelve submissions<sup>26</sup> that support Policy 5.2.11 and seek its retention as notified.
457. The J and J Hellstrom submission (688.016) seeks that the Policy should be cross-referenced to the Council's climate change policies, as, given the very low height above sea-level in the Lower Wairau Valley (1-2 m in places), salt-water intrusion into the aquifer will become more of an issue for management in the future.
458. I have not been involved in the consideration of the MEP climate change provisions, therefore I am unable to comment on that. With regards to the consideration of climate change in the environmental limits for water, it is my understanding that, given the 10-year life of the Plan once operative, it was not considered that any particular consideration had to be given to climate change at this time. That is not to say that planners and scientists throughout the Plan review process have not been mindful of climate change, and that there is perhaps a need for a longer term strategy (across Plan cycles) that could be used at the time of the next Plan review. It is also noted that where salt-water intrusion has been identified as an issue to be managed, conductivity limits are included in the MEP. At this time, given I have not been a party to the climate change hearings, I am not making any recommendation with regards to the cross-referencing. I further note however, that cross-referencing is generally not an approach taken in the drafting of the MEP.
459. The Fulton Hogan Limited submission (717.022) seeks that the Policy be amended to apply to aquifers generally, rather than only to FMUs dominated by an aquifer, as the Policy as

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<sup>26</sup> 479.019 (DOC), 509.042 (Fish and Game), 962.025 (MFIA), 992.007 (NZDF), 1124.029 (S MacKenzie), 1201.028 (Trustpower Limited), 778.002 (Irrigation NZ), 631.006 (Constellation), 1242.006 (Yealands Estate Limited), 484.007 (Clintondale), 331.002 (P Neal) and 715.023 (Forest and Bird)

notified potentially may lead to restrictions or management measures being placed on a surface water take that have no bearing on the avoidance, remedy or mitigation effects.

460. As discussed relative the submitters similar submission on Policy 5.2.4, the scenario described is correct, in that surface water abstractions in FMUs dominated by aquifers would have the same limits imposed as groundwater abstractions in those FMUs. The MEP framework has been purposefully developed that way to give effect to the NPSFM, particularly the requirement for all FMUs to have environmental limits.
461. The Horticulture NZ submission (769.017) seeks amendment of the Policy to remove (a) to (f) and set flows and levels based on the freshwater objectives for each FMU which are informed by the values identified for that FMU, or add a new matter stating – “*to provide for the identified values for the FMU*”. The submitter is of the view that the setting of the flows and levels should be to reflect the identified values and freshwater objectives for the FMU, and Policy 5.2.11 essentially overrides that process.
462. I find this submission to be quite confusing but ultimately, I am of the view that the Policy actually does what they are seeking. Policy 5.2.11 sets limits, as the explanation to Policy 5.2.1 says it will, to give effect to Objective 5.2. And this is done, as is explained throughout the provisions, to protect natural and human use values, which are identified in Appendix 5. The only area that is perhaps different is that the submitter seems to suggest that there needs to be a specific Objective for each FMU, which I do not consider to be correct or required by the NPSFM.
463. The Pernod Ricard submission (1039.015) does not seek any specific relief for which an assessment and recommendation can be made but seeks clarification as to which FMUs are dominated by aquifers. The aquifer dominated FMUs are those FMUs that have a management level, rather than a management flow in Schedule 3. There are a couple of outliers for other reasons (Needles Creek FMU and Benmorven FMU C Class) but other than that the remaining FMUs with management levels are the aquifer dominated FMUs.

### **Recommendation**

464. It is recommended that Policy 5.2.11, and its associated explanation, is retained as notified.

### **Appendix 6 – Schedule 3**

465. Schedule 3 of Appendix 6 is titled “*Minimum Flows and Levels for Water Takes*”. The following submission are those made on Schedule 3 of Appendix 6 as they relate to aquifers, and are therefore associated with Policy 5.2.11.

466. The submissions assessed below are separated out by FMU.

### **Southern Springs FMU**

467. The N Wood submission (3.001) seeks that Schedule 3 identify the Class A and B of water consent for Southern Springs FMU, recognising the obligations associated with those currently on Class A water and remove the restrictions for Class A consent holders associated with the limits the MEP is introducing. The submitter also seeks that there be a cancellation of all consents transferring water out of the Southern Springs areas as any ongoing MDC support of these activities, while limiting those within this area, is highly questionable.
468. The Southern Springs FMU area has never had Class A and B consents, however some consents did not have any restrictions, which is what the submitter is likely referring to as Class A water permits. The NPSFM requires environmental limits to be set for all FMUs, therefore the existing consents with no restrictions will all have limits applied, this is the case for everyone not just Southern Springs. With regards to the matter of transportation of water

out of the catchment, irrespective of whether this is enabled or not, the consents in this FMU will have limits applied to them. The Southern Springs FMU has not been identified as over-allocated and, so as long as the water allocated is within the MEP limits it is sustainable, regardless of where it is used. The issue of equity and future aspirations is a different matter, similar to those raised regarding the Awatere FMU earlier, but that is not the concern raised by the submitter. Class A based regime is not appropriate for this aquifer dominated FMU, the limits are required by the NPSFM and there is no particular evidence that use of the water beyond the boundaries of the FMU is not sustainable.

469. The Caythorpe Farm Limited submission (295.001) seeks the replacement Southern Springs management flow, which requires takes to be fully restricted when the water level drops to the limit, with graduated restrictions based on location relative to Doctors Creek. The submitter is of the view that, whilst it understands the need for the Council to impose trigger levels on groundwater takes to preserve the quality of the aquifer, it feels that tying their wells to flows in Doctors Creek at Battys Road is completely unfair for two reasons - factors other than well interference (such as aquatic weed growth) can influence the flow levels of Doctors Creek, and the proximity of its wells to Doctors Creek.
470. Peter Davidson has considered the Caythorpe Farm Limited submission and provided the following advice – the MEP flow threshold is much less restrictive and simpler than earlier attempts to maintain low flows in Doctors Creek and the upper Taylor River over summer. While the submitter’s proposal has merit, it would not avoid some degree of restrictions under severely dry weather conditions as some groundwater draining the Fairhall area and contributing to the flow of the Southern Springs transits beneath their property. The MEP restriction threshold will only interfere with water user’s ability to take and use water for an extremely small proportion of time.
471. Peter Hamill has also considered the Caythorpe Farm Limited submission and provided the following advice – Doctors Creek has instream values that need to be protected. Instream surveys have been carried out when flows are reduced to determine the impact on the instream life. The cut off  $0.010\text{m}^3/\text{s}$  means that the water is barely moving in the Creek and any more loss would result in the flow stopping altogether. If this happens the habitat values in the Creek will be severely impacted.
472. Based on the advice of Messrs Davidson and Hamill, and the Councils requirement to implement the NPSFM, it is recommended that the relief sought is accepted, and changes are made to the environmental limits for the Southern Springs FMU. However, it is noted that there is a typographical error in the regime expressed in Schedule 3 for the Southern Springs FMU, the management flow should read “*Fully restricted below  $0.010\text{m}^3/\text{s}$  mamsl*”.

### **Rarangi Shallow Aquifer North and South FMUs**

473. The C Kirk submission (268.001) seeks that the proposed minimum/management level for the Rarangi Shallow Aquifer North FMU at well P28w/4331 is retained, however it would be preferable for the limit to be raised from 1.20mamsl to 1.50mamsl, and increase the minimum/management level for the Rarangi Shallow Aquifer North FMU at well P28w/4349 from 0.25mamsl to 0.5-0.6mamsl. The submitter also seeks that the proposed minimum/management level for the Rarangi Shallow Aquifer South FMU at well P28w/4331 is retained, however it would be preferable for the limit to be raised 1.20mamsl to 1.50mamsl, and increase the minimum/management level for the Rarangi Shallow Aquifer South FMU at wells P28w/3668 and/or P28w/3711 from 0.25mamsl to 0.5-0.6mamsl. The submitter is of the view that these amendments will take into account climate change/global warming and will help to 'future-proof' these vital water supplies. Further, it will enhance further expansion of this region by allowing 'free-water' to remain during summer/drought periods, which will encourage colonisation of additional native plants and especially animal/bird life.
474. The T Lasham submission (357.002) seeks that the proposed minimum/management level for the Rarangi Shallow Aquifer FMUs is raised as residents are concerned with the low level

the aquifer is allowed to fall before draw off must cease as the lower the level the more concentration of contaminants in our drinking water.

475. These submissions have been considered by Peter Davidson and the following is his advice

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- The seawater intrusion elevation cut-offs suggested by the submitters were the initial starting values MDC staff considered. After review and external consultation, MDC staff decided these values were too conservative.
- Setting cut-off thresholds is especially difficult in terms of the electrical conductivity of groundwater as it is not possible to accurately model its response to abstraction. The thresholds have not been transgressed yet so their adequacy has not been tested in practice.
- As sea-level rises it is likely that it will increase groundwater levels so having a higher cut-off threshold is not likely to help. However, the electrical conductivity of groundwater is likely to increase with sea-level rise, but MDC staff consider the proposed thresholds are appropriate based on current knowledge.
- The submitters suggested higher cut-off for the Rarangi wetland complex at the MDC monitoring well P28w/4331 does not represent dry weather conditions and would be too restrictive on consented water users.

476. On the basis of Mr Davidson's advice, I do not recommend any changes as a consequence of these submission.

#### **Wairau Aquifer North, Central and South Coastal FMUs**

477. The C Kirk submission (268.001) seeks that the proposed minimum/management levels for the Wairau Aquifer North, Central and South Coastal FMUs are retained, however it would be preferable for the limit to be raised 1.25mamsl to 1.50mamsl. The submitter is of the view that these amendments will take into account climate change/global warming and will help to 'future-proof' these vital water supplies. Further, it will enhance further expansion of this region by allowing 'free-water' to remain during summer/drought periods, which will encourage colonisation of additional native plants and especially animal/bird life.

478. This submission has been considered by Peter Davidson and he advises that the seawater intrusion elevation cut-offs suggested by the submitters were the initial starting values MDC staff considered. After review and external consultation, MDC staff decided these values were too conservative.

#### **Wairau Aquifer North, Central and Urban Springs FMUs**

479. The environmental limits in Schedule 3 for the Wairau Aquifer North, Central and Urban Springs FMUs would be appropriately considered here following on from Policy 5.2.11, especially given (b) of that provision. However, as Policy 5.6.2, which is considered further on in this report, is specifically about the setting of environmental limits in these FMUs, the associated Schedule 3 submissions have been assessed in conjunction with that Policy.

#### **Taylor River FMU**

480. The Council lodged a submission (91.249) seeking a correction to Schedule 3, no specific opposition of relevance was received in relation to this submission, therefore it is recommended that it is accepted. The details of the changes are in the Recommendation section below.

## **Recommendation**

481. It is recommended that Schedule 3 of Appendix is retained, except where amended below or elsewhere in this report.
482. The Southern Springs FMU management flow or level in the table in Schedule 3 should be amended to read as follows –
- "Fully restricted below 0.010m<sup>3</sup>/s mamsf".*
483. The Taylor River FMU description (first column) in the table in Schedule 3 should be amended to read as follows –
- "Taylor River (below Doctors Creek confluence)"*

## **Policy 5.2.12**

484. Policy 5.2.12 reads as follows –
- "Set conductivity limits for Freshwater Management Units dominated by aquifers adjoining the coast to manage the potential for saltwater contamination of the aquifer."*
485. There are three submissions<sup>27</sup> that support Policy 5.2.12 and seek its retention as notified.
486. The Ngāti Toa submissions (166.023 and 166.063) seek reference to Chapter 3 (Tangata Whenua Iwi) in other chapters that iwi have identified and to add specific objectives into other chapters, as they are of the view that it is good to have a dedicated chapter however, the issues should also be visible throughout the whole document. Cultural values are visible in some places but not in all.
487. In my view, cultural values are appropriately included this suite of provisions, however I am aware that the integration, or otherwise, of Chapter 3 is an issue that has repeatedly come up during the hearings process, and that the Panel is considering.
488. The J and J Hellstrom submission (688.017) is the same as their submission on Policy 5.2.11 above, and the response is also the same.
489. The Fulton Hogan Limited submission (717.023) seeks to amend the Policy to remove the conductivity limit requirements, or limit the application of Policy 5.2.12 to the coastal FMUs (i.e. Wairau Aquifer Coastal Central FMU). The submitter is of the view that saltwater intrusion is an effect most often associated with the cumulative volume of water taken from an aquifer and placing a restriction on individual consents penalises individual abstractors rather than implementing an FMU or aquifer wide response, for example through an overall allocation limit. Further, while in circumstances where abstractions are located very close to the fresh/saltwater interface a consent by consent approach may be appropriate, this may not be the case for abstractions located further from this area especially in FMUs such as the Riverlands FMU.
490. It would make the Policy redundant to remove the conductivity limit requirements as that is the whole purpose of the Policy, and the Policy itself by description limits the restrictions to aquifer dominated FMUs adjoin the coast, and they are specifically identified in Schedule 5 of Appendix 6. The submission reasons suggest that the relief sought does not exactly reflect the concerns held, so Peter Davidson has considered the submission and provided the following advice –
- The Riverlands FMU bounds the Pacific Ocean/Wairau Estuary and there is the potential for seawater intrusion to occur.

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<sup>27</sup> 1201.029 (Trustpower Limited), 778.023 (Irrigation NZ) and 715.029 (Forest and Bird)

- The volumetric allocation limit for the Riverlands FMU is based on model simulations of aquifer behaviour in the absence of actual water use figures to derive a cause and effect relationship.
- The volumetric limit is not precise enough to account for seasonal variations or uncertainty about the position of the seawater/freshwater boundary or its sensitivity to abstraction from wells.
- Given the potential consequences of seawater intrusion; conditions on water permits in terms of a minimum groundwater level and maximum electrical conductivity level are warranted.
- The electrical conductivity is the true test of seawater intrusion as it directly relates to saltwater whereas the level is an indirect measure.

491. On the basis that the Policy in essence already does what the relief sought is seeking, and Peter Davidson's advice regarding other matters raised, it is recommended that there is no change to Policy 5.2.12 as a result of this submission.

492. The Fonterra submission (1251.007) seeks the addition of the word "*groundwater*" before "*conductivity limits*", as it is unclear where the conductivity limits apply i.e. groundwater or surface water.

493. The Policy is very clear, it applies to aquifer dominated FMUs adjoining the coast. The limits are detailed in Schedule 5 in Appendix 6, which shows the limits apply to the Rarangi Shallow Aquifer South, Riverlands, Wairau Aquifer Coastal South, Wairau Aquifer Coastal Central and Wairau Aquifer Coastal North FMUs, and the note associated with the Schedule states that those FMUs are identified in the FMU Maps 1, 2, 3 or 4. Therefore any water taken under resource consent within those FMUs could be expected to have conductivity limits apply. It is noted that there are circumstances where a river dominated FMU overlies an aquifer dominated FMU, e.g. the Wairau River FMU near the coast, however it will be obvious from the nature of the water take, which FMU is relevant.

### ***Recommendation***

494. It is recommended that Policy 5.2.12, and its associated explanation, is retained as notified.

### **Appendix 6 – Schedule 5**

495. Schedule 5 of Appendix 6 is titled "*Conductivity Levels for Water Takes*". The following submission are those made on Schedule 5 of Appendix 6, which is associated with Policy 5.2.12.

496. The C Kirk submission (268.002) seeks the retention of the Schedule as notified but with the addition of a conductivity level for the Rarangi Shallow Aquifer North FMU, which is sought to be the same as Rarangi Shallow Aquifer North FMU. It is assumed that the submitter means the same restriction but applied to wells applicable to Rarangi Shallow Aquifer North FMU. There is no particular reason given for the relief sought, except to note this FMU is not mentioned in Schedule 4, and it should be.

497. Peter Davidson has considered this submission and his advice is that it is not appropriate to specify a conductivity threshold for the Rarangi Shallow Aquifer North FMU monitoring well as it is located too close to the sea and does not reflect the natural state of the freshwater aquifer, but rather is dominated by ocean processes.

### ***Recommendation***

498. It is recommended that Schedule 5 is retained as notified.

## Allocation of Water

This group of policies are linked to Issue 5B and Objective 5.2 under the topic “Allocation of Water” and include Policies 5.2.13 to 5.2.16 (inclusive), Method 5.M.2, Rule 2.6.1.

### Policy 5.2.13

499. Policy 5.2.13 reads as follows –

*“Limit the total amount of water available to be taken from any freshwater management unit and avoid allocating water (through the resource consent process) beyond the limit set.”*

500. There are eight submissions<sup>28</sup> that support Policy 5.2.13 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission (Fish and Game 509.043 and EDS submission 698.019), the recommendation for these eight submissions in Appendix 1 are recorded as accepted in part.

501. The Federated Farmers submission (425.040) seeks the following amendment to Policy 5.2.13 –

*“Limit the total amount of water available to be taken from any freshwater management unit and ~~avoid allocating~~ **but allow for the allocation of** water (through the resource consent process) beyond the limit set **when the applicant can demonstrate that the adverse effects on the values of that freshwater management unit will individually or cumulatively be no more than minor.**”*

502. The submitter states that it understands this approach is in line with the NPSFM, however it submits that there does need to be recognition that historically people have been provided with water, which now may result in over-allocation. As such, these situations need to be recognised and provided for, therefore Federated Farmers submits that the renewal of existing permits (via Section 124) should be allowed where the resource is over-allocated. Allocation of water may be possible when a resource user can provide information that suggests that their additional take of water will not have an adverse effect. This could be provided through additional monitoring data, historical records or through consent conditions that will reduce the adverse effect on the FMU.

503. The submitter says it understands that the Policy is consistent with the NPSFM, however its submission suggests a lack of understanding of the NPSFM requirements. With regards to s124, the provisions have been developed with exceptions for applications subject to s124, therefore the submitters concerns are already resolved in the MEP.

504. The Fish and Game submission (509.043) and the EDS submission (698.019) seek amendment of the Policy to more clearly outline the intent of the Policy, in particular explain how the limit will be set to maintain biodiversity and the values identified for the FMU. Further, the Policy needs to be amended in a manner that splits the Policy to deal with the setting of limits and the avoidance of over allocation.

505. In my view, there is no need to split the Policy, however I acknowledge the submitters have identified an area of clarification that is necessary. Policies 5.2.4, 5.2.11 and 5.2.13 are all policies developed to set environmental limits in accordance with the NPSFM, which include both allocation limits and minim flows/levels. I appreciate it is not clear from Policy 5.2.13 that the allocation limits have also been set to achieve the matters expressed in Policy 5.2.4 (a) to (g) and Policy 5.2.11 (a) to (f), therefore I recommend the explanation to Policy 5.2.13

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<sup>28</sup> 1124.030 (S MacKenzie), 1189.041 (Ngāi Tahu), 1201.031 (Trustpower Limited), 778.024 (Irrigation NZ), 479.020 (DOC), 548.022 (AWUG), 712.060 (Flaxbourne Settlers Association) and 715.025 (Forest and Bird)



is amended to clarify this link. The specific recommendation is under the recommendation heading below.

506. The Dairy NZ submission (676.022) seeks an amendment to Policy 5.2.13 to provide for an exception to exceeding the limit where new hydrological data or proposed consent conditions show that effects can be avoided. The submitter supports the need to set limits on the total amount of water that can be allocated within any FMU and avoid further allocation in this instance, however it may be possible to demonstrate that an additional take will not result in adverse effects. In addition, Dairy NZ view retaining the existing Policy as being inconsistent with Policy 5.2.8 and Objective 5.3 and the enabling intent of the RMA.
507. The exception is similar to that sought by Federated Farmers, and again shows a lack of appreciation that under the NPSFM, once the Council sets an allocation limit in the Plan over-allocation must be avoided and water quantity must be managed within limits. If new hydrological data becomes available that indicates an allocation limit should be increased or decreased, then that needs to go through a plan change process, especially as the limits are associated with values, and therefore the community needs to be involved in changes to the limits. With regards to this Policy being inconsistent with Policy 5.2.8 and Objective 5.3, the former is specific to minimum levels or flows, not allocation limits, and the latter aspires to enable access to reliable supplies of freshwater, enabling access to an over-allocated resource would likely be at odds with a goal of reliability.
508. The Pernod Ricard submission (1039.016) seeks an amendment to Policy 5.2.13 to provide for add the word “*generally*” before the phrase “*avoid allocating water*” as it is of the view that the “*avoid*” language signals that allocations in excess of the levels set will be Prohibited Activity and the submitter considers that over the life of the Plan, there should be flexibility to apply as a non-complying activity.
509. The submitter is correct that the use of the word “*avoid*” in this instance signals Prohibited Activity rules, and that is what was intended as the NPS does not say “*generally avoid*” it says “*avoid*”. As discussed above in relation to similar submissions, it is not appropriate in my view, to open the door to exceptions as this would not enable the Council to meet its obligations under the NPSFM.

### **Recommendation**

510. It is recommended that Policy 5.2.13 is retained as notified.
511. It is recommended that the explanation to Policy 5.2.13 is amended as follows –

*“Policy B1 NPSFM requires the Council to set environmental flows and/or levels for all FMUs. These levels include an allocation limit, a limit on the total amount of water that can be allocated within any FMU. Policy 5.2.13 gives effect to Policy B1 of the NPSFM by establishing allocation limits for each FMU through regional rules. For those water resources that have multiple allocation classes, an allocation limit is set for each class.*

*Policy B5 of the NPSFM specifies that the Council must not make decisions that will likely result in future over-allocation. This means that the Council cannot continue to allocate water once the cumulative level of allocation from a FMU reaches the allocation limit set in rules. For this reason, any further allocation of water from the FMU should be avoided (unless explicitly provided for in another allocation class).*

***Environmental flows and/or levels include allocation limits and minimum flows/levels, and both are set to provide for and/or achieve the matters expressed in Policies 5.2.4 and 5.2.11.”***

## Rule 2.6.1

512. Rule 2.6.1 is a Prohibited Activity rule that implements Policy 5.2.13, and read as follows –

*“Take of water that would cause the water quantity allocation limit for the relevant Freshwater Management Unit to be exceeded, unless the take is:*

*(a) provided for as a Permitted Activity;*

*(b) the subject of a resource consent application affected by section 124 of the RMA”.*

513. There are two submissions<sup>29</sup> that support Rule 2.6.1 and seek its retention as notified.

514. The Fish and Game submission (509.256) seeks amendment to the Rule to ensure that it includes the water takes below minimum flows, and that the exclusion provided at (b) ceases to have effect by 2030. The submitter is of the view that the provisions need to include takes that are below the minimum flows, and that the activity also needs a time limit on the exclusion at (b) to ensure this is not an ongoing impact.

515. The takes below minimum flows and levels are for the most part Permitted Activities and do not have an allocation limit, therefore it would be inappropriate and unworkable to reference these types of activities in this Rule. With regards to (b), this is included as a technicality to enable replacement consents to be sought, if the exception was not included, then no permit holder in almost every aquifer dominated FMU would be able to replace their consent on expiry.

516. The Dairy NZ submission (676.006) seeks that the Rule is changed to a Non-complying Activity as the submitter is of the view that the enabling approach taken in Policies 4.1.1 and 4.1.2 should also be applied to water allocation, and that the prohibition stymies the ability of people to make a case for the taking of the water where new information comes to light regarding the state of the water resource and/or ability to avoid effects.

517. For the most part this submission mirrors the one lodged against the association Policy 5.2.13, so my assessment would be valid here too. Policies 4.1.1 and 4.1.2, which the submitter references, are enabling policies regarding the use of land and natural resources. In my view, the water allocation and use provisions are enabling wherever it is environmentally responsible for them to be. Rule 2.6.1 is necessary to give effect to the NPSFM, and it would be inappropriate to enable new allocations of water to be granted out of over-allocated resources before that over-allocation is resolved. Pernod Ricard has lodged a similar submission (1039.109) also seeking that this activity have Non-complying status, this is not supported for the reasons already expressed.

518. The Federated Farmers submission (425.448) seeks amendment of the Rule to add the following exception – *“(c) A take in accordance with Section 14(3)(b) for domestic needs and stock drinking.”* The submitter is of the view that s14(3)(b) takes for domestic needs and animal drinking need to be clearly exempted from the Prohibited Activity and allowed even when a catchment allocation limit has been exceeded as stock drinking and household supply is highly valued by farmers and needs to be allowed as an unrestricted in this Plan.

519. In my view, the relief sought is already provided for in the Rule with the existing exceptions, (a) provides an exemption for Permitted Activity takes, which include stock and domestic abstractions, and (b) provides for the continuation of existing takes, which would cover any stock and domestic abstractions that for some reason are consented (e.g. abstractions for multiple properties from a single well). On the basis that the relief sought is already provided for, the recommendation is recorded as *“accept”* in Appendix 1, however if hearing evidence shows the relief sought differs from what it appears to be then the recommendation may change.

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<sup>29</sup> 479.160 (DOC) and 1189.114 (Ngāi Tahu)

## **Recommendation**

520. It is recommended that Rule 2.6.1 is retained as notified.

### **Policy 5.2.14**

521. Policy 5.2.14 reads as follows –

*“Where there is insufficient environmental data to establish an allocation limit for a river, use a default allocation limit of 50% of the seven day mean annual low flow for rivers with a mean flow greater than 5m<sup>3</sup>/s and 30% of the seven day mean annual low flow for rivers with a mean flow less than 5m<sup>3</sup>/s.”*

522. There are nine submissions<sup>30</sup> that support Policy 5.2.14 and seek its retention as notified.

523. The Federated Farmers submission (425.041) seeks retention of this Policy as notified, however is of a view that it should be combined with Policy 5.2.7 for clarity and in the interests of ensuring this Chapter is succinct. The relief sought would be entirely inappropriate as the purpose of this Policy is to set allocation limits and the purpose of Policy 5.2.7 is to set minimum flows.

524. The Fish and Game submission (509.044) seeks retention of this Policy as notified, however then states that where studies indicate a higher or lower (than that proposed in the PNESEF) percentage allocation is necessary to preserve values, this should instead be adopted. The submitter supports the provision as notified as it aligns with the provisions proposed in the PNESEF.

525. In my view, the submitter’s relief sought requires greater clarification, I clearly understand the position of retaining the Policy as they are satisfied that it is consistent with the PNESEF, however the other part of their submission would suggest they seek the enablement of an alternative, which would be akin to Policy 5.2.8 that performs that role relative to Policy 5.2.7. And in the case of Policy 5.2.8, Fish and Game sought the removal of that Policy and for it to be replaced with a policy that ensured changes could not be made without a plan change. The submitter, in that case, was of the view that the NPSFM specifies that limits are not to be exceeded and therefore it would be inappropriate to vary a limit through a resource consent process. While I did not agree with the submitter’s view on Policy 5.2.8, it seems to be completely at odds with their submission on Policy 5.2.14, therefore until further clarification is provided, the relief sought is not supported.

## **Recommendation**

526. It is recommended that Policy 5.2.14, and its associated explanation, is retained as notified.

### **Policy 5.2.15**

527. Policy 5.2.15 reads as follows –

*“Protect flow variability of rivers by using, where identified as necessary, a system of flow sharing that splits allocation of available water between instream and out-of-stream uses.”*

528. There are nine submissions<sup>31</sup> that support Policy 5.2.15 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of other submissions, the recommendation for these nine submissions in Appendix 1 are recorded as accepted in part.

<sup>30</sup> 1201.032 (Trustpower Limited), 778.025 (Irrigation NZ), 479.021 (DOC), 548.023 (AWUG), 631.007 (Constellation), 676.023 (Dairy NZ), 1039.017 (Pernod Ricard), 1242.007 (Yealands Estate Limited) and 715.026 (Forest and Bird)

<sup>31</sup> 1201.033 (Trustpower Limited), 778.026 (Irrigation NZ), 1124.031 (S MacKenzie), 479.022 (DOC), 501.002 (Ngāti Kuia), 548.024 (AWUG), 676.024 (Dairy NZ), 1189.042 (Ngāi Tahu) and 715.027 (Forest and Bird)

529. Similar submissions lodged by Fish and Game submission (509.045), Pernod Ricard (1039.018) and EDS submission (698.020) seek amendment of the Policy to provide clarity on the situations where it is “identified as necessary” (e.g. through criteria) that the flow variability of rivers be protected. Where flow sharing is identified as appropriate, the plan needs to signal how this will be implemented. This will ensure consistency in assessment and application by decision-makers.
530. Val Wadsworth has considered all of these submissions and has provided the following advice –
- Policies 5.2.15 and 5.2.16 are intended to set out the flow sharing provisions, however it is acknowledged that they would benefit from some elaboration to address the different approaches to upstream and downstream monitoring sites.
  - The following additions to the explanation to Policy 5.2.15 are recommended, it is noted that some of the content is also relevant to Policy 5.2.16 and that perhaps the explanation to that Policy would benefit from a reference back the Policy 5.2.15 explanation proposed.
  - Amend the explanation to Policy 5.2.15 as detailed under Recommendations below.
531. Based on the advice of Val Wadsworth, amendments have been recommended to the explanation to Policy 5.2.15 and these changes do respond to the concerns raised in the submissions, however it is not clear that they will fully satisfy the submitters relief sought therefore the recommendations on Appendix 1 have been recorded as accepted in part.

### **Recommendation**

532. It is recommended that Policy 5.2.15 is retained as notified.

533. It is recommended that the explanation to Policy 5.2.15 is amended as follows –

*“The establishment of environmental flows for rivers affords protection to natural and human use values by establishing the minimum flow requirements for those uses and values. In some circumstances, flow variability above the minimum flow may also be important to sustain the natural and human use values supported by the river. Where this is the case, a system of flow sharing is used to proportionally allocate the water above the minimum flow to both abstractive users and natural and human use values. In other words, a proportion of the water available within the allocation class can be abstracted, while a proportion must be left in the river. The water left in the river will ensure that the taking of water does not reduce river flow to the minimum for an extended period of time.*

***Flow sharing will leave one unit of water for instream use for every two units abstracted within a class (referred to as 2:1 flow sharing). The detail of the flow sharing is river specific and is reflected in the allocation limits and thresholds for taking water in each of the allocation classes. Flow sharing is based on two different formats depending on whether the monitoring site is upstream, or downstream of the main abstraction zone.***

***For rivers where the monitoring site is upstream of the abstraction zone, the abstractions will be limited based on flows recorded at the monitoring site to achieve the Minimum flow for Management purposes as specified in Volume 3, Appendix 6, Schedule 3, plus any environmental flow share within the Class. Note that there is no provision for flow sharing within any Class A allocation, as it is considered that the initial minimum flow block is the Class A flow share. As flow at the monitoring site falls from the rationing point in Schedule 3, towards the final cut off point, abstractions will be rationed progressively in blocks of 20% of the total class allocation.***

***For rivers where the monitoring site is downstream of the abstraction zone, rationing is not easy to manage as the input flows are not known. In this instance the environmental flow share blocks will be left as discrete units between each Class, and will be equal in quantity to half of the Class above them. Note that there is no provision for flow sharing within any Class A allocation, as it is considered that the initial minimum flow block is the Class A flow share. Cut off of users will occur when the minimum flow for each Class is reached. If users do no self-rationing as that limit is approached there may be “bounce” back above the minimum flow level.***

#### Policy 5.2.16

534. Policy 5.2.16 reads as follows –

*“For resource consent takes from the Waihopai River, Awatere River and other rivers that utilise an upstream flow monitoring site, allocations for the taking of water will be reduced proportionally as flows fall in order to avoid any breach of an environmental flow.”*

535. There are four submissions<sup>32</sup> that support Policy 5.2.16 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of other submissions, the recommendation for these four submissions in Appendix 1 are recorded as accepted in part.

536. The Fish and Game submission (509.046) seeks greater specificity in the Policy about the hydrological parameters that govern reductions, how takes will be proportionately reduced, and how the Policy will be applied to both Permitted Activity takes and those granted through resource consents. Further, this policy could be improved by modelling the hydrological transit time and recession curve between downstream take sites and the upstream recorder on which they are triggered. The Pernod Ricard submission (1039.019) raises similar concerns regarding how the reductions will be implemented, and seeks it to be on a fair and transparent basis.

537. Val Wadsworth has considered these submissions and agrees that the concerns raised are valid and it would be useful to add further information to the Policy. It is noted that Val identified that Policies 5.2.15 and 5.2.16 are related and, as consequence of submissions on Policy 5.2.15, additions were made to the explanation to that Policy with the suggestion that a cross reference be made within the explanation to Policy 15.2.16. On this basis it is recommended that this reference be made, specific changes are detailed under the Recommendations below.

538. One hesitancy in being overly prescriptive about how rationing would be undertaken, is that the intention is to use water user groups to assist with managing water rationing as water flows drop in these catchments. This is demonstrated by in the inclusion of Method 5.M.2 in the MEP, which directly references the use of these groups for the Awatere and Waihopai FMUs. There is the potential for a co-ordinated approach by the water users in those communities to lessen the impacts of proportional reductions, including delaying when restrictions come into effect. As indicated in the amended explanation to Policy 5.2.15, a back-up approach if a user group did not formulate an appropriate alternative, would be to ration abstractions progressively in blocks of 20% of the total class allocation. The recommendations for the Fish and Game, and Pernod Ricard submissions are recorded in Appendix 1 as accepted in part, although it is acknowledged that the submitters may not consider we have gone very far in addressing their concerns.

539. With regards to the Policy applying to Permitted Activity takes, the nature of Permitted Activities is such that you do not know when and who is operating under those provisions. It is not realistic to include them in this Policy as how would advise users of restrictions (other

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<sup>32</sup> 778.027 (Irrigation NZ), 479.025 (DOC), 548.025 (AWUG) and 715.028 (Forest and Bird)

than public notice) or be able to monitor compliance with restrictions? Where Permitted Activities do not have specified volumes, e.g. stock water takes, what would the reduction be based on – a percentage of actual use (which would mean water use had to be metered and records retained)? The environmental limits are developed to provide for the natural and human use values of FMUs, which includes the Permitted Activities, the reductions that would occur as a result of this Policy are to avoid any breach of those environmental flows.

540. The Trustpower Limited submission (1201.035) seeks for the Policy to be amended to limit its application to consumptive water takes, as it is of the view that the Policy should not apply to non-consumptive takes that return water immediately downstream of the abstraction point (i.e. the Waihopai HEPS), as these takes have no influence on river levels in low flow conditions.
541. Val Wadsworth has considered this submission and would have no concerns if an exception was made for the Waihopai HEPS as the return distance is quite short, and the reach between take and discharge retains some habitat. However, Val recommends limiting any exception written into the Policy to existing non-consumptive takes for regionally significant infrastructure. On the basis of the content of the submission and the advice of Mr Wadsworth, it is recommended that the Policy is amended to add the following sentence – ***“This Policy does not apply to existing non-consumptive takes related to regionally significant infrastructure”***.
542. The Ngāi Tahu submission (1189.043) seeks the addition of a new policy to read as follows – *“For rivers that utilise an upstream flow monitoring site, the Council will investigate and put in place downstream monitoring sites at suitable locations, in consultation with Tangata Whenua iwi.”* The submitter is concerned that a flow monitoring site should be located at the river mouth, as well as upstream, and that information on water taken is not sufficiently accurate to rely solely on an upstream monitoring location. As an interim measure the approach set out in Policy 5.2.16 is supported, but the concerns of Ngai Tahu outlined above remain, particularly in the Awatere FMU.
543. Val Wadsworth has considered this submission and notes that a downstream monitoring site would be ideal, and therefore he supports it in principle, however in practice this would be a costly exercise, which would require additional staff resources, which is why this monitoring is not carried out. Val advises that both the Awatere and Waihopai downstream locations for monitoring sites are not ideal, so would require regular intervention to keep sensors in the wetted channel, along with very regular gauging to define the rating curve on these insensitive sites. Val estimates site establishment at each site might cost \$30,000 to \$40,000, and would require resource consent, and ongoing costs might be \$5,000-\$10,000 each year for mechanical intervention, plus about 0.2 FTE staff requirement each. In order to consider the new policy sought further, more information would be needed on the financial implications, as well as the costs/benefits to the environment and water users of changing from the existing sites to new downstream sites.
544. It is noted that the monitoring sites were established for these FMUs in the current locations for good reasons, and those reasons have not changed. In the meantime, the Council has established a long and sustained record of flow data for these sites, which plays a very important part in the management of water in these catchments. It would not be insignificant to move to new sites and start a data record again from scratch, particularly if there will be ongoing challenges to gathering data and maintaining the accuracy of the sites. Based on the information available, and the advice of Mr Wadsworth, the relief sought is not supported at this time.
545. The Fonterra submission (1251.008) seeks for the Policy to be amended to refer to reductions during low flow to be undertaken in accordance with Fonterra’s proposal to redraft Policy 5.2.5 as, while the submitter accepts the need for permits to include conditions relating

to takes during times of low flow, it supports a low flow management regime that prioritises between uses.

546. With the exception of a reference to groundwater that was specific to Policy 5.2.5, I do not support the redraft Policy 5.2.5 sought by Fonterra, therefore as a consequence I do not support the relief sought regarding Policy 5.2.16. The reasons for the relief sought being inappropriate, and in some cases unnecessary, are the same as discussed in the assessment of its submission on Policy 5.2.5.

### **Recommendation**

547. It is recommended that Policy 5.2.16 is amended as follows –

*“For resource consent takes from the Waihopai River, Awatere River and other rivers that utilise an upstream flow monitoring site, allocations for the taking of water will be reduced proportionally as flows fall in order to avoid any breach of an environmental flow. **This Policy does not apply to existing non-consumptive takes related to regionally significant infrastructure**”.*

548. It is recommended that the explanation to Policy 5.2.16 is amended to add the following sentence to the end of the explanation –

*“Resource users affected by this policy should also read the explanation to Policy 5.2.15 as it is also relevant to the application of proportional reductions.”*

### Method 5.M.2

549. Method 5.M.2 is a method of implementation associated with Policy 5.2.16 (although not exclusively) and is considered here, the Method reads as follows –

*“Water user groups – Encourage the establishment of water user groups to assist the Council to manage water resources. In particular, seek to work with water user groups in the Awatere and Waihopai FMUs to achieve voluntarily rationing of water takes in response to falling flows in order to achieve the flow objectives for each river”.*

550. There are two submissions<sup>33</sup> that support Method 5.M.2 and seek its retention as notified.
551. The Ngāti Toa submission (166.041) seeks the addition to the Method the “River and Freshwater Advisory Committee” to ensure the Council meets its legal obligations.
552. The River and Freshwater Advisory Committee is part of the Te Tau Ihu settlement deeds. The MEP does discuss the River and Freshwater Advisory Committee in the section of the Introduction to Chapter 3 headed “*Deeds of Settlement*”. It is clear in the deeds and associated legislation that the Committee is to be established by the Te Tau Ihu Iwi, the members of the Committee are drawn solely from the eight relevant iwi and that the three Councils are to attend meetings at the request of the Committee. The responsibility for establishing the River and Freshwater Advisory Committee does not lie with the three Te Tau Ihu councils, therefore it would be inappropriate in my view, to amend this Method as sought.

### **Recommendation**

553. It is recommended that Method 5.M.2 is retained as notified.

### Policy 5.2.17

554. Policy 5.2.17 reads as follows –

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<sup>33</sup> 548.076 (AWUG) and 961.008 (Chamber)

*“Implement water restrictions for water users serviced by municipal water supplies when the management flows/levels for the resource from which the water is taken are reached.”*

555. There are seven submissions<sup>34</sup> that support Policy 5.2.17 and seek its retention as notified.
556. The Federated Farmers submission (425.042) seeks that the Policy is amended to state that water restrictions would be based on a specific method (not provided by the submitter), as while the submitter supports urban resource users also being required to think about their use when the rural community has restrictions on water use imposed due to low flows, it considers that this Policy would benefit from being more explicit about the method on which water restrictions to be imposed on individual municipal water supply users would be based. In a similar submission, Horticulture NZ (769.018) seeks the Policy require restrictions to be imposed on water taken by individual municipal water supply users for non-essential domestic purposes, when the management flows/levels are 20% above the minimum flow or level. The submitter is of the view that municipal users, which includes industrial and non-essential domestic uses, should be restricted prior to the environment flow being reached to extend the time before more restrictive regimes are required.
557. In terms of the MEP, controls can only be applied to the resource consent granted to the Council for the municipal water supply, not the individual users within the water supply itself. As indicated in the explanation to the Policy, any restrictions will be implemented by the MDC Assets and Services Department as managers of the municipal supplies. I note that Horticulture NZ seeks for non-essential domestic and industrial water users to be restricted a potentially quite a lot earlier than all other consents water users, this would appear to be a very unequitable scenario that prioritises some businesses over others, e.g. a food production factory on municipal supply would have to stop taking water before a vineyard irrigator or brewery operation on private supply.

### **Recommendation**

558. It is recommended that Policy 5.2.17, and its associated explanation, is retained as notified.

### **Diversion of Water**

This group of policies are linked to Issue 5B and Objective 5.2 under the topic “*Diversion of Water*” and include Policies 5.2.18 and 5.2.19, Rules 2.2.18 (including Heading 2.3.17 and Standards 2.3.17.1 and 2.3.17.2), 2.2.19 (including Heading 2.3.18 and Standard 2.3.18.1), 2.2.20 (including Heading 2.3.19), 2.2.21 (including Heading 2.3.20), 2.2.22 (including Heading 2.3.21), Standards 2.3.22.1 and 2.3.22.3, and 2.2.24 (including Heading 2.3.23).

The Permitted Activity rules that I have included in this section do not particular implement Policies 5.2.18 and 5.2.19 as they are centred around diversion activities that require resource consent, however as the Rules relate to diversions, this was the most appropriate location to consider the submissions in my view.

#### **Policy 5.2.18**

559. Policy 5.2.18 reads as follows –

*“Require resource consent for the diversion of water to enable the potential adverse effects of the diversion to be considered.”*

560. There are six submissions<sup>35</sup> that support Policy 5.2.18 and seek its retention as notified.

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<sup>34</sup> 509.047 (Fish and Game), 1201.034 (Trustpower Limited), 778.028 (Irrigation NZ), 548.026 (AWUG), 676.025 (Dairy NZ), 712.061 (Flaxbourne Settlers Association) and 715.029 (Forest and Bird)



561. The Fish and Game submission (509.049) seeks amendment of the Policy to make it clear how the adverse effects from the diversion of water are to be addressed through the resource consent process and to ensure that the requirements of the RMA are met to avoid, remedy or mitigate adverse effects on the environment, as this Policy provides no clear direction for decision makers on the how adverse effects of the diversion of water are to be addressed.
562. The purpose of this Policy is to recognise that the effects of diversions can be such that it is appropriate that activity require a resource consent, the subsequent Policy 5.2.19 is the provision that specifically addresses effects, therefore I do not agree with the submitter that Policy 5.2.18 needs to be amended.
563. The MFIA submission (962.033) and the Nelson Forests Limited submission (990.168) seek amendments of the Policy to provide for short term and minor diversions as Permitted Activities as it is of the view that short term diversions associated with some in stream works should be provided for, e.g. culvert installation.
564. There is no information in the submissions to demonstrate that this exception would not impact on natural and human use values, and it is my recollection that activities of this nature were traversed in the water quality hearings and lack of the effect on water quality was also not demonstrated. The installation of a culvert is a Permitted Activity under Rule 2.7.7, so it may be that some of the minor activities the submitter has in mind do not require consent. It is also quite probable that the submitters concerns have been usurped by the NESPF.
565. The Ngāi Tahu submission (1189.044) seeks the following amendment to the Policy –  
*“Require resource consent for the diversion of water to enable the potential adverse effects of the diversion to be considered, **including the any effects from the mixing of waters.**”*  
 The submitter notes that Section 3.2.4 of the Kaikoura IMP sets out a number of issues in regard to water diversion, and potential impacts of diversion both positive and negative and include mahinga kai values, ecology, natural character. Further, the potential mixing of waters is also a concern to Kaikoura Runanga.
566. As discussed in relation to the Fish and Game submission above, Policy 5.2.19 is the provision that specifically addresses effects, therefore I do not agree with the submitter that Policy 5.2.18 needs to be amended.

### **Recommendation**

567. It is recommended that Policy 5.2.18, and its associated explanation, is retained as notified.

### **Rule 2.2.18**

568. Rule 2.2.18 (and associated Heading 2.3.17 and Standards 2.3.17.1 and 2.3.17.2) is a Permitted Activity rule, and reads as follows –

*“Diversion of water associated with the operation of the Drainage Channel Network existing on 9 June 2016, and permitted activities in the Floodway Zone*

*2.3.17.1. The diversion must not be in, or within 8m of, a Significant Wetland.*

*2.3.17.2. The diversion must be managed by the Marlborough District Council”.*

569. The wording of Rule 2.2.18 was not copied exactly over to Heading 2.3.17 as it should be, if the structure of the Permitted Activity provisions in the MEP is retained, it is recommended this typographical error is corrected. As a Heading is of no consequence, in my view, that

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<sup>35</sup> 501.001 (Ngāti Kuia), 479.024 (DOC), 1201.036 (Trustpower Limited), 778.029 (Irrigation NZ), 548.027 (AWUG) and 715.030 (Forest and Bird)

correction can be done as a minor amendment. The amendment is detailed under the Recommendation heading below.

570. There is one submission<sup>36</sup> that supports Standard 2.3.17.1 and seeks its retention as notified.

571. The NZTA submissions (1002.116, 1002.118 and 1002.117) seek to amend this Rule as follows –

*“Diversion and temporary damming of water associated with the operation and maintenance of roadside drainage channels the Drainage Channel Network existing on 9 June 2016, and permitted activities in the Floodway Zone.”*

572. In relation to the amendment sought to the Rule, the NZTA seek the addition of a new standard requiring that the activity not cause flooding or erosion on private land, and that Standard 2.3.17.2 also apply to NZTA. NZTA is silent on Standard 2.3.17.1, therefore it is assumed that it seeks for that Standard to continue to apply. The NZTA notes that Rule 2.2.18 does not apply to drainage channels outside of the Drainage Channel Network and the Floodway Zone, such as those adjacent to the State Highway, and there is no other rule relating to this activity, therefore a Discretionary Activity resource consent would be required. The submitter is of the view that it is appropriate that the diversion of water associated with the operation and maintenance of roadside drainage channels is also permitted. In addition, it is also of the view that it would be appropriate for this Rule to also enable the damming of water in drainage channels. The submitter also notes that it would be appropriate for the diversion and damming activities to be permitted only if it does not cause flooding or erosion of private land.

573. In principle I support the relief sought as I do not believe the intention when drafting the provisions would have been to not permit the activity described (as far as the diversion goes), however my preference would be for a new separate rule to be added to the MEP in response to this submission. I find no compelling reason in the submission to add damming to the Rule, and the Council has not sought that for its activities in the Drainage Channel Network and the Floodway Zone. Peter Hamill has considered this submission and, in principal, agrees with my assessment, however he is concerned that “roadside drainage channels” is not defined, and he would not support the relief sought if it could possibly involve drainage channels that are also waterways, as some of them are.

574. I do not support the amendment to Rule 2.2.18 and associated provisions as sought, however in principal I support a new rule in response to this submission, however this would be contingent on the submitter appropriately defining “roadside drainage channel”. On this basis I have recorded the recommendation in Appendix 1 as accepted in part. If a suitable definition was developed, I offer the following as an option for the additional rule and standards –

It is recommended that a new rule, including an associated heading and standards, is added as a Permitted Activity to Section 2.2 of Chapter 2 in Volume 2 of the MEP, as follows –

*“Diversion of water associated with the operation and maintenance of roadside drainage channels.*

*Standard 1 – The diversion must not be in, or within 8m of, a Significant Wetland.*

*Standard 2 – The diversion must be managed by the New Zealand Transport Agency.*

*Standard 3 – The diversion must not cause flooding or erosion of private land.”*

575. The Fish and Game submissions (509.237 and 509.238) seek to amend this Rule and associated provisions to increase the setback from a Significant Wetland, and add additional

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<sup>36</sup> 1193.112 (Environment Centre)

Standards that ensure the activity considers potential effects on the environment. The submitter is of the view that the Standards notified in relation to the operation of the Drainage Channel Network do little to ensure that the potential environmental effects of any diversions are appropriately addressed. In particular, Fish and Game seek amendments to include additional standards that ensure the potential effects on the summer hydrological regime of Para Wetland are avoided.

576. For the most part there is not sufficient information in this submission to make a full assessment of the relief sought, in particular the submitter wants “additional standards” but has not provided any detail of how they might read, and it is particularly concerned about the Drainage Channel Network relative to the Para Wetland, however the effect of one on the other is not clear or explained in the submission. A review of the Drainage Channel Network Overlay Map shows that there are no parts of the Network that directly intercept the Para Wetland, and with the exception of perhaps one section, most parts of the Network are a considerable distance from the wetland. Further information is required to enable us to understand how diversions in the Drainage Channel Network will impact on the Para Wetland. Also, the submitter seeks an increased setback to Significant Wetlands but it does not say what the appropriate setback would be to address its concerns. Subject to receiving further evidence at the hearing, the relief sought is not supported at this time.

### **Recommendation**

577. It is recommended that Rule 2.2.18, and Standards 2.3.17.1 and 2.3.17.2 are retained as notified.
578. It is recommended that Heading 2.3.17 is amended as follows –

*“Diversion of water associated with the operation of the Drainage Channel Network existing on 9 June 2016, and permitted activities in the Floodway Zone.”*

### **Rule 2.2.19**

579. Rule 2.2.19 (and associated Heading 2.3.18 and Standard 2.3.18.1) is a Permitted Activity, and reads as follows –

*“Diversion and discharge of water by pumping or floodgated gravity outfalls associated with the operation of the Drainage Channel Network existing on 9 June 2016, and rivers within the Floodway Zone, including the partial control of water levels and flow rates.*

*2.3.18.1. The diversion and discharge must not be in, or within 8m of, a Significant Wetland.*

*2.3.18.2. The diversion and discharge must be managed by the Marlborough District Council”.*

580. There is one submission<sup>37</sup> that supports Rule 2.2.19 and seeks its retention as notified.
581. The Fish and Game submissions (509.239 and 509.240) seek to amend this Rule and associated provisions to increase the setback from a Significant Wetland, and add additional Standards that ensure the activity considers potential effects on the environment. The submitter is of the view that the Standards notified in relation to the operation of the Drainage Channel Network do little to ensure that the potential environmental effects of any diversions and discharges are appropriately addressed.
582. For the most part there is not sufficient information in this submission to make a full assessment of the relief sought, in particular the submitter wants “additional standards” but has not provided any detail of how they might read, and an increased setback to Significant Wetlands but it does not say what the appropriate setback would be to address its concerns.

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<sup>37</sup> 1193.113 (Environment Centre)

Subject to receiving further evidence at the hearing, the relief sought is not supported at this time. Peter Hamill has considered these submissions and is also of a view that it is not clear from the submission how the submitter specifically wants to change the provisions, particularly in the context of existing structures.

### **Recommendation**

583. It is recommended that Rule 2.2.19, Heading 2.3.18 and Standards 2.3.18.1 and 2.3.18.2 are retained as notified.

### **Rule 2.2.20**

584. Rule 2.2.20 (and associated Heading 2.3.19) is a Permitted Activity rule, and reads as follows –

*“Diversion of up to 200l/s of water from the Wairau River into Gibson’s Creek for the purposes of instream protection.*

*2.3.19.1. The diversion must be managed by the Marlborough District Council”.*

585. The Fish and Game submissions (509.241 and 509.242) seek to remove this Permitted Activity Rule, or amend the Rule to ensure adverse effects on the environment are appropriately managed, such as being tied back to the agreed sustainable flow regime (SFR) for the Wairau River FMU at Barnetts Bank. The submitter also seeks clarification as to the meaning of “*instream protection*”.

586. This diversion is required to protect the instream values in Gibson’s Creek and the Upper Ōpaoa that were created by the dewatering that is part of the SVIS, however I do recall that during the WAWG review process the representative from Fish and Game indicated that in times of very low flow, the organisation would rather sacrifice the values of Gibson’s Creek to keep greater flow going down the Wairau River. It is assumed this relates to the relative recreational fishing values of the respective waterways, i.e. the Wairau River has these values and Gibson’s Creek does not. Val Wadsworth and Peter Hamill have considered these submissions and are of a collective view that linking this diversion to a management flow at Barnetts Bank would be unacceptable as the ceasing the diversion when the flow at the Wairau River monitoring site is 8m<sup>3</sup>/s would have negligible impact on the Wairau River but could have a significant impact on instream biota in Gibson’s Creek and the Upper Ōpaoa. Should the flows in the Wairau River get extremely low, the Council has the discretion to reduce this diversion, as the Rule is a permission rather than a requirement. This is the ideal approach in my view, as the Council can look at all of the affected waterways and determine the most appropriate course of action to have the best outcome in relation to natural and human use values.

### **Recommendation**

587. It is recommended that Rule 2.2.20, Heading 2.3.19 and Standard 2.3.19.1 are retained as notified.

### **Rule 2.2.21**

588. Rule 2.2.21 (and associated Heading 2.3.20) is a Permitted Activity rule, and reads as follows –

*“Diversion of up to 500l/s of water from the Waihopai River into Gibson’s Creek for the purposes of instream protection.*

*2.3.20.1. The diversion must be managed by the Marlborough District Council”.*

589. The Fish and Game submissions (509.243 and 509.245) seek to remove this Permitted Activity Rule, or amend the Rule to ensure adverse effects on the environment are appropriately managed, such as being tied back to the agreed sustainable flow regime (SFR) for the Wairau River FMU at Barnetts Bank. The submitter also seeks clarification as to the meaning of “*instream protection*”.
590. This diversion is required to protect the instream values in Gibson’s Creek to ensure that Gibson’s Creek and down onto the Ōpaoa retains flow for instream values when the SVIS is cut off. Val Wadsworth and Peter Hamill have considered these submissions and advise that, under the current permitted volume of 500l/s, the stretch of the Waihopai River from the diversion off-take to the confluence with the Wairau River has never stopped flowing. Messrs Wadsworth and Hamill are of a view that linking this diversion to a management flow at Barnetts Bank is not necessary. Should the flows in the Waihopai River downstream of the diversion off-take ever be at risk of drying up, the Council has the discretion to reduce this diversion, as the Rule is a permission rather than a requirement. This is the ideal approach in my view, as the Council can look at all of the affected waterways and determine the most appropriate course of action to have the best outcome in relation to natural and human use values.

### **Recommendation**

591. It is recommended that Rule 2.2.21, Heading 2.3.20 and Standard 2.3.20.1 are retained as notified.

### **Rule 2.2.22**

592. Rule 2.2.22 (and associated Heading 2.3.21) is a Permitted Activity rule, and reads as follows –

*“Diversion of water from the Ōpaoa Loop into Roses Overflow for the purposes of river control.*

*2.3.21.1. The diversion must be managed by the Marlborough District Council”.*

593. The Fish and Game submissions (509.246 and 509.247) seek to remove this Permitted Activity Rule, or amend the Rule to ensure adverse effects on the environment are appropriately managed.
594. The submission contains no information regarding how this activity is adversely affecting the environment, or identifies an effect of concern that needs to be addressed. This Rule is to enable an existing MDC diversion to operate for flood protection purposes and there is nothing in the submission to persuade me that there are any issues that need to be addressed by altering or removing this provision.

### **Recommendation**

595. It is recommended that Rule 2.2.22, Heading 2.3.21 and Standard 2.3.21.1 are retained as notified.

### **Standards 2.3.12.1 and 2.3.12.3, and Standards 2.3.22.1 and 2.3.22.3**

596. These submissions on Standards 2.3.12.1 and 2.3.12.3 would have been assessed under Matter 3 in relation to rules giving effect to Policy 5.3.5, however they are so inextricably linked to Standards 2.3.22.1 and 2.3.22.3 (associated with Rule 2.2.23) that in my view, it was more useful to the reader to include them all together.

597. Standards 2.3.12.1 and 2.3.12.3 (associated with Rule 2.2.13) are standards on a Permitted Activity rule, which received no submissions itself, and read as follows (Rule 2.2.13 text provided for context) –

*“Take and use of water from Significant Wetland W599 for skifield facilities and snowmaking at Rainbow Skifield.*

*2.3.12.1. The take must only be during the ski season.....*

*2.3.12.3. The instantaneous rate of the take must not exceed 20l/s.....”*

598. Standards 2.3.22.1 and 2.3.22.3 (associated with Rule 2.2.23) are standards on a Permitted Activity rule, which received no submissions itself, and read as follows (Rule 2.2.23 text provided for context) –

*“Diversion of water from Significant Wetland W598 to Significant Wetland W599 for wetland augmentation at Rainbow Skifield.*

*2.3.22.1. The diversion must only be during the ski season....*

*2.3.22.3. The instantaneous rate of the diversion must not exceed 100l/s”.*

599. The MDC submission (91.253) seeks the amendment of Standard 2.3.12.3 to change the rate of take to 100l/s. The MDC submission (91.254) seeks the amendment of Standard 2.3.22.3 to change the rate of diversion to 20l/s. These standards relate to the companion Rules 2.2.13 and 2.2.23, and during the drafting of the Plan the instantaneous rates in the two Rules became transposed, a situation that was brought the attention of Rainbow Sports Club Incorporated prior to the closing of submissions. The inclusion of these two Rules was to enable the continuation of an existing activity.

600. The relief sought by MDC is supported, however if the Panel is inclined to expand the activities of the Rainbow Sports Club Incorporated beyond the ski season to new types of recreation all year round, then the removal of these Permitted Activity Rules would be recommended as the effects of the activities would then become inconsistent with the Objectives and Policies of the MEP and the NPSFM. This would then make the s14 activities of Rainbow Sports Club Incorporated a Discretionary Activity.

601. The four Rainbow Sports Club Incorporated submissions below are assessed together after the details of the submissions.

602. The Rainbow Sports Club Incorporated submission (228.001) seeks the amendment of Standard 2.3.12.1 to enable the take to occur all year round as required for skifield operations, and the take of water for snowmaking must only occur in the period 1 May to 30 September as required for snowmaking. And its submission 228.002 seeks that the rate of take in Standard 2.3.12.3 is increased to 150l/s. As discussed above, there was a typographical error that lead to this Standard incorrectly stating 20/s instead of 100l/s, so the relief sought is effectively an increase in rate from 100l/s to 150l/s.

603. The Rainbow Sports Club Incorporated submission (228.003) seeks the amendment of Standard 2.3.22.1 to enable the diversion to be undertaken all year round as required for skifield operations. And its submission 228.004 seeks that the rate of diversion in Standard 2.3.22.3 is increased to 150l/s. The relief sought is not just an increase in rate from 100l/s to 150l/s, but it is actually an increase from 20l/s to 150l/s. As discussed above, there was a typographical error that lead to this Standard incorrectly stating 100/s instead of 20l/s.

604. By way of reasons for the relief sought the submitter advises that water is required all year round for skifield operations as the skifield operates at various times all year round, while out of season as the operation requirements require for maintenance, management project and activities. The submitter provided documents to support their submissions relating to the

consultation between it and the Council during the drafting of the provisions. The documents include a letter to the Council with feedback on the draft provisions, and three attachments. Two of the relate to the zone rules and the third is specific to the water rules. I note that the instantaneous rates were correct in the draft standards used as the basis for discussions, and the submitter sought no change to those rates at that time. It is also noted that it did not seek the diversion to be all year round but in essence to define “the ski season” to 1 March to 31 October, although given the diversion is required to offset the take, which was sought to be year round, this may not have been thought through.

605. The Permitted Activities were included in the MEP on the basis that it was the continuation of an existing activity (provided for similarly in the WARMP), and that the original permissions were based on the take and diversion from and between the two Significant Wetlands being of limited duration and volume (the ski season). Had the activity been to enable growth and development beyond this, the activity would have required a Discretionary Activity resource consent, not only, but especially because it involves two Significant Wetlands. No submissions were received opposing the identification of the wetlands as significant. I do not hold the view that any potential new Permitted Activity enablement in the Open Space 4 should manifest itself as a Permitted Activity enablement in the water management provisions. Farming is a Permitted Activity in the Rural Environment Zone but a water permit is still required to irrigated crops. However, I can appreciate that there is an argument around whether new land use activities should be enabled if they cannot reasonably be utilised due to the unavailability of water – a matter for a separate topic.
606. Peter Hamill has considered the submissions and does not support the Rainbow Sports Club Incorporated’s amendments to increase the time period over when the diversion and abstractions can take place. It is Peter’s recollection that the purpose of the water diversion and abstraction was to provide for the making of snow, if it being used for anything else then the activity may have been in non-compliance with the provisions of the WARMP. High altitude tarns such as those that the submitter is abstracting water from have high ecological values. The southernmost tarn is one of the biggest tarns in Marlborough and it is important to ensure that the species that live in there can complete their life cycles during the part of the year that it is not covered in snow. With such a short growing season these ecosystems can be quite fragile to disturbance and fluctuating water levels. There are certainly enough values to mean that a full ecological assessment would need to take place before water could be abstracted during the summer period, and to do this a resource consent should be required. Peter is surprised that the existing winter diversion and take activities can take place without a resource consent and surmises that the original WARMP Permitted Activities may have been borne out a decision that was perhaps not as focused on the potential impact the water take and diversion may have had on the ecological sustainability of the wetlands as would have been appropriate.
607. The submitter has provided no supporting information in its submission to demonstrate that the two Significant Wetlands can sustain such a large increase in water take and diversion, and also a considerable increase in the duration (and presumably the type) of activity. Given this lack of evidence, Peter Hamill’s advice and both the Council’s higher level provisions and obligations under the NPSFM, I do not support the relief sought in the Rainbow Sports Club Incorporated submissions.

### **Recommendation**

608. It is recommended that Standard 2.3.12.1 is retained as notified.

609. It is recommended that Standard 2.3.12.3 is amended as follows –

*“2.3.22.3. The instantaneous rate of the diversion must not exceed 20l/s 100l/s”.*

610. It is recommended that Standard 2.3.22.1 is retained as notified.

611. It is recommended that Standard 2.3.22.3 is amended as follows –

*“2.3.22.3. The instantaneous rate of the diversion must not exceed ~~100l/s~~ 20l/s”.*

#### Rule 2.2.24

612. Rule 2.2.24 (and associated Heading 2.3.23) is a Permitted Activity rule, and reads as follows –

*“Diversion of water in the Floodway Zone”.*

613. There are two submissions<sup>38</sup> that support Rule 2.2.24 (Heading 2.3.23) and seeks its retention as notified.

614. The Fish and Game submissions (509.248 and 509.249) seek a reference in the Standards to the Council’s Code of Practice for River and Stream Operations, together with additional consideration of the summer hydrological regime of Para Wetland, and river geomorphology when considering the diversion of water to avoid future habitat and biodiversity loss and ensure the holistic consideration of river management.

615. Peter Hamill and I have both considered this submission and are of the view that Standard 2.3.23.1 is sufficient to address the concerns raised as the Rivers and Drainage Asset Management Plan is a more recent document than the Code of Practice, its development included public participation, and it is already a document incorporated into the MEP by association.

616. The Davidson Group Limited submission (172.003) seeks an extension to the provision to allow works by entities other than Council, applying the same conditions (except add that the Council must be notified), but perhaps limiting it to holders of land use consents for the existing protection works. The submitter states that the diversion of water may be required for the maintenance of private stop banks, and this maintenance is essential for the protection of significant investments. In the submitters view, the Plan makes no provision for such diversion to be undertaken by anyone other than Council.

617. The submitter is incorrect, the Plan does provide for private diversions, just not as a Permitted Activity as it is appropriate that a resource consent is sought to ensure an assessment of works can be made so they do not cause unintended flooding, or other adverse effects. I note that the submitter is of the view that, except for the Council, the rule should be limited to holders of land use consents for the existing protection works, there is nothing in the submission to explain why it is acceptable that a consent is required for the protection works but the diversion should be enabled by a Permitted Activity.

#### ***Recommendation***

618. It is recommended that Rule 2.2.24 and Heading 2.3.23 are retained as notified.

#### Policy 5.2.19

619. Policy 5.2.19 reads as follows –

*“Have regard to the following matters in determining any resource consent application to divert water:*

*(a) the purpose of the diversion and any positive effects;*

*(b) the volume or proportion of flow remaining in-channel and the duration of the diversion;*

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<sup>38</sup> 548.104 and 548.115 (AWUG)



- (c) *the effect of the diversion on environmental flows set for the waterbody;*
- (d) *the scale and method of diversion;*
- (e) *any adverse effects on natural and human use values identified in the Marlborough Environment Plan in the reach of the waterbody to be diverted;*
- (f) *any adverse effects on permitted or authorised uses of water; and*
- (g) *any adverse effects on the natural character of the waterbody, including but not restricted to flow patterns and channel shape, form and appearance.”*

620. There are six submissions<sup>39</sup> that support Policy 5.2.19 and seek its retention as notified.
621. The Ngāti Toa submissions (166.022 and 166.062) seeks an addition matter (h) is added, which would read – *“the effect of the diversion on the mauri of the diverted stream/river”*. The submitter relates the relief sought to a view that cultural values should not only be focused in Chapter 3 – Tangata Whenua Iwi.
622. In my view, the relief sought is already provided for as matter (c) requires regard to be had to the effect of the diversion on the environmental flows set for a waterbody, and those flows have been set to protect mauri (Policy 5.2.4(a)), and matter (e) in Policy 5.2.19 requires that regard to be given to any adverse effects on natural and human use values, which include cultural values.
623. The Ngāti Kuia submission (501.088) seeks an addition matter (h) is added, which would read – *“the mixing of waters”*.
624. There is no further discussion in the submission to assist in understanding the issue sought to be resolved by this addition – decision makers must have regard to the mixing of waters, in what context? what are they to consider? An assumption could be made that it is the impact of the mixing of waters on the mauri of a waterbody, but that is not stipulated in the submission so could be completely incorrect. If it is related to protecting cultural values/mauri, then my assessment would mirror that of the previous submissions from Ngāti Toa, if the mixing of waters is not related to cultural matters, then more information from the submitter is necessary to understand the relief sought.
625. The Ngāi Tahu submission (1189.045) also seeks an addition matter (h) is added, which would read – *“any adverse effects on the Tangata Whenua iwi values associated with the waterbody, including mahinga kai.”* The diversion of water is a particular concern to the submitter, and effects on cultural values are likely. Ngāi Tahu note that Section 3.2.4 of the Kaikoura IMP sets out a number of issues in regard to water diversion, and potential impacts of diversion both positive and negative and include mahinga kai values, ecology, natural character.
626. The relief sought is similar to Ngāti Toa, and my assessment of those submissions is equally applicable to the Ngāi Tahu submission. It is noted that Ngāi Tahu lodged a submission (1189.044) on the previous Policy seeking the addition of a reference to effects from the mixing of waters, in my view, an amendment such as this, if made, would be better made to Policy 5.2.19, therefore it should be part of the consideration of the submissions on this provision.
627. Subject to clarification of the relief sought by Ngāti Kuia, three iwi all seek similar relief. As expressed above, in my view, the matters raised are already addressed in the provisions, so given that, an additional matter to be given regard to along the lines sought would in essence be a duplication and not a substantive change to the overall suite of provisions. On this

<sup>39</sup> 479.025 (DOC), 873.011 (KiwiRail), 1201.037 (Trustpower Limited), 778.030 (Irrigation NZ), 548.028 (AWUG) and 715.031 (Forest and Bird)

basis, if the Panel were of a mind to amend Policy 5.2.19 to reinforce the need to protect mauri/cultural values, I would not be opposed to that.

628. The Fish and Game submission (509.050) seeks to amend the Policy to ensure it sets out the how diversions will be managed to meet the Objective. The submitter is of the view that this Policy is written as matters of discretion and not as a policy which provides guidance to decision makers on how to achieve the Objective. Further, it does not provide decision makers with guidance on how the diversion of water is to be addressed, the contents of this Policy would be more appropriate as standards for the assessment of the diversion of water.
629. In my view, Policy 5.2.19 does give effect to Objective 5.2, generally, but also quite explicitly in matters (c), (e) and (f). This appears to me to be a very directive Policy, it states decision makers must “*have regard to the following matters*”, and then it provides clear guidance on what those matters are, this does not seem to me to be especially different in practice to what the submitter is seeking – standards for assessment. In my view, the Policy does not need amendment as sought.
630. The MFIA submission (962.034) seeks for the Policy to provide for consideration of the duration of the activity as time scale is also important to consider.
631. Duration of the diversion is explicitly stated in (b) of the Policy, therefore it is assumed that the submitter did not note that when drafting its submission. On the basis that the relief sought is already provided for, the submission is recommended for acceptance in Appendix 1.
632. The Nelson Forests Limited submission (990.169) seeks for the amendment of the rules so that diversions require a Restricted Discretionary consent or Controlled Activity consent, rather than a Discretionary Activity consent as notified. The matters of discretion/control would be (a) to (g) in the Policy, with the addition of timeframe. The submitter is of the view that this Policy establishes the matters for control or discretion, therefore there is no justification for the diversion of water to be a full Discretionary Activity. And that another matter that is important to consider is the timeframe of the diversion.
633. With regards to the timeframe, this mirrors the MFIA submission so my response is the same for this submitter. With regards to the substantive matters raised in the submission, I view a Controlled Activity as being unacceptable for diversions as there may be circumstances in which consent should not be granted, therefore this option needs to remain available. I do not share the submitter’s view that the matters in Policy 5.2.19 equate to matters of discretion in a Restricted Activity sense. The lack of enablement for diversions through Permitted Activities gives an indication of the impact they can have on natural and human use values, and in my view, a full Discretionary Activity status for the rule associated with Policy 5.2.19 as notified remains appropriate.

### ***Recommendation***

634. It is recommended that Policy 5.2.19, and its associated explanation, is retained as notified.

### **Damming of Water**

This group of policies are linked to Issue 5B and Objective 5.2 under the topic “*Damming of Water*” and include Policies 5.2.20, 5.2.21 and 5.2.22.

#### **Policy 5.2.20**

635. Policy 5.2.20 reads as follows –

*“Where water is to be dammed to enable the storage of water, encourage the construction and use of “out-of-river” dams in preference to the construction and use of dams within the beds of perennially or intermittently flowing river.”*

636. There are eleven submissions<sup>40</sup> that support Policy 5.2.20 and seek its retention as notified.
637. The W Lissaman submission (255.001) states that livestock water dams have been constructed over the years, generally in natural landforms so as to minimise the extent of the excavation required, these are inherently small, with very limited catchments and this Policy appears to make this activity Discretionary.
638. This is not the case as damming up to 5000m<sup>3</sup> of water is a Permitted Activity (Rule 2.2.17), and constructing a dam on an ephemeral river is a Permitted Activity (Rule 2.7.4). However, I understand from some of the content of the submission that the volume of water that can be dammed as a Permitted Activity may be more the issue for the submitter, this is addressed elsewhere relative to the relevant rule.
639. Elsewhere in the submission, concern is raised the definition of "*intermittently flowing*". The submitter states that many of South Marlborough's waterbodies are considered to be ephemeral and, due to the significant variation in rainfall between years, some ephemeral streams may only run for a short period in a dry year or run for several weeks in a wet season after prolonged rainfall. The submitter sought for the definition of "*intermittently flowing*" to be amended to reflect this. Pending further clarification at the hearing, the submitter appears to be describing an ephemeral waterbody, and his description is consistent with the definition of "*ephemeral*", so I am unclear why or how he wants to change the definition for "*intermittently flowing*".
640. The M Chapman submission (348.004) seeks to replace this Policy with a policy that encourages in stream dams/storage, and includes the waiving of resource consent fees with regard to building storage/dams. The submitter is of the view that this Policy is vague as there is no definition as to what constitutes a river - does it encompass streams flowing for four or five months of the year? Stream beds in gullies afford the cheapest form of dam construction, dollars per cubic meter of storage, as generally only one headwall has to be constructed. Further, the bureaucracy is too heavy with regard to water flowing in and back out the other side.
641. While the relief sought states the submitter wants a policy that encourages instream dams, in the context of the rest of the submission this appears to be borne out of a misunderstanding of the Plan provisions around the different types of rivers. The MEP is not vague in its definition of what constitutes a river, "river" is as defined in the RMA, and further definitions are provided for "*ephemeral*" and "*intermittently flowing*". A dry gully that only flows for a short period following heavy or persistent rain but not regularly each year is an ephemeral river for which the building of a dam is a Permitted Activity. Notwithstanding clarification at the hearing of the submitters concerns, as the construction of a dam on an ephemeral river does not require a resource consent, there would be no fees to waive.
642. The Flaxbourne Settlers Association submission (712.001) seeks to amend the Policy to acknowledge that storage in dams in the Flaxbourne area may need to accommodate more than two years storage due to ongoing drought years. The submitter states that dams are an important method of providing stock with drinking water supply in the Flaxbourne area given the extreme seasonal water shortages, and dams need to be encouraged and supported as an efficient means of providing stock water supply during dry times. The submitter supports the Policy to the extent that it encourages the storage of water.

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<sup>40</sup> 425.043 (Federated Farmers), 454.129 (K Loe), 455.018 (J Hickman), 456.018 (G Mehlhopt), 479.026 (DOC), 509.051 (Fish and Game), 1039.020 (Pernod Ricard), 778.031 (Irrigation NZ), 676.026 (Dairy NZ), 548.029 (AWUG) and 715.032 (Forest and Bird)

643. In my view, there is no amendment necessary as there is nothing in this, or any other, Policy that how many years storage there can be for stock water. I stand to be corrected, but the submitter appears to be confusing this Policy with a later one about limiting water taken to storage per year for irrigation purposes to the equivalent of 2 years irrigation needs. The submitter has lodged identical submissions (712.002 and 712.003) on Policies 5.2.21 and 5.2.22, the assessment and recommendation for Policy 5.2.20 is applicable to both submissions.
644. The Ngāi Tahu submission (1189.046) seeks to amend the Policy to require, rather than encourage, the construction and use of off-stream dams as opposed to onstream dams. The submitter is of the view that, as outlined in Policies 5.2.20, 5.2.21 and 5.2.22 damming rivers can result in significant adverse effects, and often these effects are impossible or difficult to reverse – for example, effects on indigenous fish species. Ngāi Tahu support and encourage the use of storage dams out of river (as also encouraged by the Policy) where adverse effects can be appropriately remedied or mitigated.
645. The issue raised in this submission really comes down to whether or not to close the door to instream dams or not. This Policy clearly signals that, despite it not being preferable, resource users should be given the opportunity to make a case for an instream dam, and the subsequent Policies assist in determining such applications. The alternative sought by the submitters would essentially equate to making instream dams a Prohibited Activity. I do not find the submission to have compelling reasons for taking such a strong position against instream dams, therefore I support the Policy remaining one of encouragement rather than requirement.
646. The MFIA submission (962.035) seeks the enablement of minor and small scale in-stream damming, and is of the view that there should be a discussion on scale of effect e.g. a fire pond vs a larger water storage pond.
647. Instream damming has been enabled to the extent that it is considered sustainable (dams constructed on ephemeral rivers), and it is appropriate that a consent is required beyond that. There is insufficient information or detail in this submission to enable me to reach a different conclusion.
648. The Nelson Forests Limited submission (990.170) seeks the amendment of this Policy to provide a wider context of the purposes of dams as it is of the view that recognition also needs to be given to water dammed for other purposes, such as stock watering and fire ponds.
649. This Policy is not really about what water is used for, while there are references to irrigation, the Policy is not about the end use of the water, therefore an amendment as sought would be inappropriate. When looking at the subsequent two policies, the matters for consideration are valid regardless of the end water use as it is about the effect of having a dam structure in a perennially or intermittently flowing river.

### ***Recommendation***

650. It is recommended that Policy 5.2.20, and its associated explanation, is retained as notified.

### **Policy 5.2.21**

651. Policy 5.2.21 reads as follows –

*“Ensure any new proposal to dam water within the bed of a river provides for:*

*(a) effective passage of fish where the migration of indigenous fish species, trout and salmon already occurs past the proposed dam site;*

- (b) *sufficient flow and flow variability downstream of the dam structure to maintain:*
- (i) *existing indigenous fish habitats and the habitats of trout and salmon; and*
  - (ii) *permitted or authorised uses of water; and*
  - (iii) *flushing flows below the dam;*
- (c) *the natural character of any waterbody downstream of the dam structure; and*

*have regard to the matters in (a) to (c) when considering any resource consent application to continue damming water.”*

652. There are five submissions<sup>41</sup> that support Policy 5.2.21 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of other submissions, the recommendation for these five submissions in Appendix 1 are recorded as accepted in part.
653. The Ngāti Toa submissions (166.021 and 166.061) seeks an addition matter (iv) to (b) of this Policy is added, which would read – “*mauri*”. The submitter relates the relief sought to a view that cultural values should not only be focused in Chapter 3 – Tangata Whenua Iwi.
654. In my view, unlike similar provisions for the diversion of water, neither Policy 5.2.21 or Policy 5.2.22 have a link back to the protection of mauri covered earlier in provisions responding to Objective 5.2. I am comfortable with the relief sought being accepted, and note there are no opposing further submissions, although there are submissions seeking retention of the Policy as notified. A consequential amendment to the explanation for the Policy would be appropriate if the change to the Policy is accepted.
655. A similar relief sought is part of the Ngāti Kuia submission on Policy 5.2.22 and I have also recommended the addition of mauri to that Policy as a consequence, however the addition of mauri to both Policies 5.2.21 and 5.2.22 is probably unnecessary as the latter applies to all damming of water, instream and out-of-river, so if mauri was only added to Policy 5.2.22 then in my view, the relief sought regarding mauri by the iwi submitters on both Policies would be provided for. I have recommended the addition of mauri for both Policies, however if the Panel was of a mind to only amend Policy 5.2.22 in this way, that would be appropriate (assuming the recommendation to add mauri was accepted).
656. The Federated Farmers submission (425.044) seeks the following amendments to the Policy

–  
*“Ensure any new proposal to dam water within the bed of a river provides for:*

- (a) ***retention of effective passage of fish where the migration of indigenous fish species, trout and salmon already occurs occurring past the proposed dam site;***
- (b) ***recognise and provided for the exclusion of trout and salmon where the dam is to be used as part of restoring/establishing native species habitat; and***
- ~~(b)~~ (c) *sufficient flow and flow variability downstream of the dam structure to maintain....”*

The submitter acknowledges that Section 7(h) of the Act anticipates that the habitat of trout and salmon should be protected, however it notes that both of these are introduced species, which can predate upon native species. And thus, in some cases (i.e. where you are restoring native species habitat with the view of introducing native species) the use of dams/weirs of some form, trout and salmon barriers may be necessary to enable this type of restoration to occur. Federated Farmers is aware of a number of farmers who have undertaken such works upon their properties throughout New Zealand, and we would be disappointed if this opportunity were not afforded to farmers within the Marlborough region.

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<sup>41</sup> 454.130 (K Loe), 479.027 (DOC), 778.032 (Irrigation NZ), 548.030 (AWUG) and 715.033 (Forest and Bird)

657. Peter Hamill has considered this submission and is of the view that the changes sought to (a) do not assist in any way, I agree with this conclusion. With regards to the addition of a new matter (the new (b)), Peter advises that in his view this would be a beneficial addition to the Policy. I am not as convinced the addition is necessary, as a resource consent applicant could still present arguments around the matter to be considered by decision makers, however if worded as recommended in the Recommendation section below, it would likely not take anything away from the intent of the Policy. The submitter also seeks that Policy 5.2.21 is combined with Policy 5.2.22 for clarity, however it is not obvious from the submission how they need clarifying, or how the relief sought is the solution, therefore this part of the relief sought is not supported. I note that Policy 5.2.21 is specific to instream dams, whereas Policy 5.2.22 applies to both instream and out-of-river dams. I note there are no further submissions that speak directly to the relief sought on this Policy, although there are submissions seeking retention of the Policy as notified. Federated Farmers lodged a similar submission (425.045) regarding the combination of the two Policies against Policy 5.2.22, the response is the same for both submissions.
658. The Ngāti Kuia submission (501.009) seeks an amendment to the end of the Policy as follows – “...and have regard to the matters in (a) to (c) when considering any resource consent application to continue damming water **and any new proposal must consider any alternatives with less adverse effects on mauri and instream values.**” The submitter is of the view that no new structures should be permitted on any waterways, and as a priority, must consider any alternatives with less adverse effects on mauri and instream values.
659. In my view, the addition as sought is not appropriate as this part of the Policy is specific to existing dams and the preceding part of the Policy is where matters regarding new dams should be expressed. In terms of the content of the relief sought, in my view, the relief sought is addressed through Policy 5.2.20, which states that out-of-river dams are preferable, and the addition of “*mauri*” to (b) in response to the submission from Ngāti Toa. On the basis that in my view, the relief sought is largely addressed, I have recorded the recommendation in Appendix 1 as accepted in part.
660. The Ngāi Tahu submission (1189.047) seeks the removal of the Policy in line with their submission on the preceding Policy. The assessment and recommendation for the submission (1189.046) on Policy 5.2.20 also applies to this submission point.
661. The Fish and Game submission (509.052) seeks the removal from the Policy of the phrase “*have regard to the matters in (a) to (c) when considering any resource consent application to continue damming water*” as the submitter considers this wording is unnecessary.
662. I am uncertain why the submitter is seeking this relief as without this text, the Policy would only apply to new dams, and when replacement consents are sought for an expiring dam consent this Policy would likely not be considered. I am of the view that the reference to existing dams is important, and should be retained in the Policy to protect instream values. The EDS submission (698.021) also seeks the removal of this phrase, however it adds as a reason that it is unnecessary because every proposal will be required to consider this Policy under s104 RMA. Perhaps a technical argument could be made along these lines, however a “new proposal” in the context of this Policy is a new dam that has not previously existed, which is a different beast to the continued use of an existing dam. In my view, it is appropriate to make it clear that this Policy is relevant in both scenarios. Even if you took the submitters position, I am not clear why two organisations of the nature of these would be so opposed to this text, so I am concerned that there may be a consequence of the notified text I am missing and that has not been elaborated on in the submissions, this may be clarified by the submitters at the hearing.
663. Fish and Game also seek that the maintenance of water quality downstream of the dam is specifically considered by decision makers and that this be included in the Policy. Water

quality is a matter dealt with elsewhere in Volume 1 of the MEP, and if those provisions are deficient with regards to dams within the bed of a river, then that should be raised in relation to those policies. Peter Hamill has considered this submission and is in agreement with my assessment of the relief sought.

664. The NZ Fish Passage Advisory Group submissions (994.001 and 994.002) seek addition of two new policies to the damming policies so they apply more broadly to include all structures in waterways. A similar submission (994.006) was lodged seeking the addition of a new AER, however again it was centred around s13 activities and monitoring all structures in waterways no matter what the activity is or in urban or rural environments.
665. The policies sought relate to the construction of a dam in a river (s13 activity), rather than the damming of water (s14 activity), therefore they are a matter to be dealt with elsewhere (submissions/hearing on riverbed activities). On this basis, I have made no recommendations on these submissions and defer them to be addressed elsewhere in the hearing process. As I understand it, the submitter lodged many submissions on the riverbed activity provisions so the concerns raised may have already been considered.
666. The Pernod Ricard submission (1039.021) seeks the amendment of the Policy to include slightly more flexible wording as follows –
- “Generally only grant consent for a ~~Ensure any~~ new proposal to dam water within the bed of a river if the application provides for:....”***
- The submitter supports the matters to be considered, however is of a view that the word "ensure" may be too absolute, and could preclude consent being granted if even one of the listed outcomes could not be achieved.
667. In my view, this would not support the intent shown through this suite of policies that out-of-river dams are preferable to instream dams due to the potential for adverse effects from the latter. The softening of the Policy as sought is not supported.
668. The Trustpower Limited submission (1201.038) seeks the amendment of the Policy limit it to the permanent damming of water, as they are of the view that the Policy should only apply to dams which are proposed to be a permanent structure in the bed of a river, and not apply to dams which will be temporary and which are used to facilitate other activities - such as the maintenance of lawfully established structures within a river.
669. This Policy applies to resource consents for the damming of water, a s14 activity, the activities described by the submitter appear to be s13 activities, which are provided for elsewhere in the MEP. If it is not clear in the riverbed activity provisions that temporary “damming” as part of a s13 maintenance activity is considered part of that activity, then in my view, it is the s13 related provisions that need to be reconsidered. It would be inappropriate to amend this Policy as sought as there may be temporary damming of water or damming related to other s13 activities for which this Policy should still be applied.

### **Recommendation**

670. It is recommended that Policy 5.2.21 is amended as follows –

*“Ensure any new proposal to dam water within the bed of a river provides for:*

*(a) effective passage of fish where the migration of indigenous fish species, trout and salmon already occurs past the proposed dam site, **(a) does not apply to trout and salmon if the purpose of the dam is for the restoration and establishment of native species habitat;***

*(b) sufficient flow and flow variability downstream of the dam structure to maintain:*

- (i) existing indigenous fish habitats and the habitats of trout and salmon; and*
- (ii) permitted or authorised uses of water; and*

(iii) flushing flows below the dam; ~~and~~

**(iv) mauri; and**

(c) the natural character of any waterbody downstream of the dam structure; and

have regard to the matters in (a) to (c) when considering any resource consent application to continue damming water.”

671. It is recommended that the second sentence in the explanation to Policy 5.2.21 is amended as follows –

*“It recognises that a dam structure can act as a barrier to fish passage, modify the flow pattern downstream of the dam structure, ~~and~~ alter the natural character of the river (or other downstream waterbodies) and provide sufficient flow and flow variability to maintain mauri, as a result of flow modification.”*

### Policy 5.2.22

672. Policy 5.2.22 reads as follows –

*“In the determination of any resource consent application, have regard to the following effects of damming of water:*

*(a) the retention of sediment flows and any consequent adverse effect upstream or downstream of the dam structure;*

*(b) changes in river bed levels and the effects of those changes;*

*(c) any downstream effects of a breach in the dam wall;*

*(d) interception of groundwater or groundwater recharge; and*

*(e) interception of surface water runoff.”*

673. There are four submissions<sup>42</sup> that support Policy 5.2.22 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these five submissions in Appendix 1 are recorded as accepted in part.

674. The Ngāti Kuia submission (501.010) seeks an amendment to add another two matters for consideration to the Policy, as follows –

***“(f) the degradation of Mauri; and***

***(g) the way in which the structure would be removed at the end of the consent term.”***

675. The submitter has not provided any information to support the relief sought, however their comments in the previous submission on Policy 5.2.22 would also be relevant here. As discussed regarding the Ngāti Toa submission on Policy 5.2.22, in my view, the addition of mauri as a matter to have regard to is appropriate as there is no link back to the protection of mauri in these provisions in the way there is in other provisions responding to Objective 5.2. I do note that to add mauri to both Policies 5.2.21 and 5.2.22 is probably unnecessary as the latter applies to all damming of water, instream and out-of-river, so if mauri was only added to Policy 5.2.22 then in my view, the relief sought regarding mauri by the iwi submitters on both Policies would be provided for. I have recommended the addition of mauri for both Policies, however if the Panel was of a mind to only amend Policy 5.2.22 in this way, that would be appropriate (assuming the recommendation to add mauri was accepted).

676. With regards to the addition of (g), I am less comfortable with this as no supporting information has been provided and structures are not necessarily removed at the end of a

<sup>42</sup> 454.131 (K Loe), 1039.022 (Pernod Ricard), 548.031 (AWUG) and 715.034 (Forest and Bird)



consent term. If the nature and purpose of the damming of water was such were removing the dam structure was an obvious outcome, then there is nothing to preclude this being a matter the decision makers consider and potentially apply conditions around. However, for many dams there would not be an intention to remove the dam at the end of the term of consent but get a replacement consent to continue the activity, and in fact were in not for the RMA limiting the term of consent to 35 years, consents of this nature may reflect the actual intended life of the dam.

677. The Ngāi Tahu submission (1189.048) seeks an amendment to the Policy to add another matter for consideration, to read as follows – “**(f) loss of indigenous biodiversity and opportunities to replace**”. In line with their preceding two submissions on Policies 5.2.20 and 5.2.21, the submitter is of the view that as they do not support instream dams in any circumstances, the parts of Policy 5.2.22 that relate to that activity should be removed (presumably parts (a) and (b), but the submission does not say so that is not clear).
678. The assessment and recommendation for this part of the submission is as for the previous two submissions. The addition of (f) above then becomes confusing as, if the Policy becomes only about out-of-river dams, it is not clear how the damming of water in this way would particularly cause a loss of indigenous biodiversity. The only reason given for this addition relates to integration with Chapter 3, so the submission does not contain any content that especially assists in understanding what concern the addition of (f) is trying to address given the submitters overall position on instream dams.
679. The Fish and Game submission (509.053) seeks an amendment to the Policy to ensure it clearly states how the Objective is going to be met, meets the requirements of an effective policy and not as matters of discretion.
680. In my view, Policy 5.2.22 does give effect to Objective 5.2 and there is nothing in the submission to assist with understanding the deficiencies of concern. This appears to me to be a very directive Policy, it states decision makers must “*have regard to the following effects*”, and then it provides clear guidance on what those effects are. In my view, the Policy does not need amendment as sought, especially as no specific wording alternative has been provided for consideration.
681. The Trustpower Limited submission (1201.039) seeks an amendment to the Policy to add the following additional matter to have regard to – “**the purpose of the damming and any positive effects**”. The submitter is of the view that the Policy should also give recognition to the positive effects that may arise from damming activities, as is the approach applied with consent applications for the diversion of water in Policy 5.2.19.
682. I do not have any particular aversion to the relief sought, except for the way in which it has been framed. The Policy is specific to having regard to certain effects, not a general list of matters to have regard to, so my preference would be that the amendment is limited to the consideration of any positive effects rather than also going into the purpose for the damming. I do hold a little bit of uneasiness as to whether the addition of this matter would somehow signal that the potential adverse effects that may arise in relation to matters (a) to (e) could be offset by the positive effects in the new matter, and that this may change the intent of the Policy. At this time, I am not making a recommendation on this submission, as I would like to consider this further with the benefit of the submitter’s hearing evidence.
683. The Irrigation NZ submission (778.033) seeks an amendment to the Policy to remove matter (c) as it is of the view that the effects of a breach in a dam wall is a safety issue that is more appropriately covered through the upcoming dam safety legislation.

684. While I am aware that dam structures are covered in various ways by other legislation, it is my understanding that the effects of the damming of water, including the effects on people and property downstream if there is a breach of the wall, is a matter that can be considered through the resource consent process. In particular, I recall the reference in the consideration of consent applications to dam water to RMA s3(f), which states an “*effect includes.....any potential effect of low probability which has a high potential impact*”. I am not satisfied that it would be appropriate to remove (c) from the Policy.

### **Recommendation**

685. It is recommended that Policy 5.2.22 is amended as follows –

*“In the determination of any resource consent application, have regard to the following effects of damming of water:*

- (a) the retention of sediment flows and any consequent adverse effect upstream or downstream of the dam structure;*
- (b) changes in river bed levels and the effects of those changes;*
- (c) any downstream effects of a breach in the dam wall;*
- (d) interception of groundwater or groundwater recharge; and*
- (e) interception of surface water runoff, **and***
- (e) the degradation of Mauri.”***

### **Water Short Direction**

Policy 5.2.23 is linked to Issue 5B and Objective 5.2 under the topic “*Water Short Direction*”.

#### **Policy 5.2.23**

686. Policy 5.2.23 reads as follows –

*“Where necessary, utilise water shortage directions to manage the adverse effects of serious temporary shortages of water on natural and human use values supported by the waterbody.”*

687. There are five submissions<sup>43</sup> that support Policy 5.2.23 and seek its retention as notified.

688. The Horticulture NZ submission (769.019) seeks the removal of “*natural and human use*” values. Horticulture NZ is of a view that the directions should be to manage all identified values.

689. As stated in the explanation to Policy 5.2.1, the natural and human use values supported by different waterbodies are identified in Appendix 5, therefore this Policy as notified manages all identified values, so the relief sought does not address the concern raised but the Policy as notified does.

690. The Fonterra submission (1251.009) seeks the removal of “*human use*” values. Fonterra is of a view that this may mean that legitimate water users might be restricted to protect (for example) model boating, and Fonterra submits that such as outcome would inappropriate.

691. In my view, this amendment to the Policy would be entirely inappropriate, for example, in one situation in Marlborough where directions have been applied in the past, it was to protect human and stock drinking water supplies – a “*human use*”. I find the example provided by

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<sup>43</sup> 509.054 (Fish and Game), 778.034 (Irrigation NZ), 1201.040 (Trustpower Limited), 548.032 (AWUG) and 715.035 (Forest and Bird)

the submitter to be preposterous, and clearly not reflective of the intention of s329 of the RMA or Policy 5.2.23. A water shortage direction is only used in very serious circumstances where a situation was not foreseen or could not have been anticipated in a way that enabled management to be established in the Plan, and therefore the Plan limits are insufficient to protect values, and what is being protected justifies a response of this severity. Given directions are applied in extraordinary circumstances, it is also quite possible that the values that require protection in that specific instance may not have been identified in the MEP. The door should not be closed to the application of directions to circumstances where relevant values have not been explicitly specified in the Plan.

### **Recommendation**

692. It is recommended that Policy 5.2.23, and the associated explanation, are retained as notified.

### **Other**

This group of policies are linked to Issue 5B and Objective 5.2 under the topic “*Other*” and include Policies 5.2.24 and 5.2.25.

#### **Policy 5.2.24**

693. Policy 5.2.24 reads as follows –

*“Impose conditions on water permits to take water requiring users to reduce and cease the authorised take when specified flows and/or levels are reached.”*

694. There are eight submissions<sup>44</sup> that support Policy 5.2.24 and seek its retention as notified.

695. The Pernod Ricard submission (1039.023) seeks amendments to the Policy to provide a full or partial exemption for taking water for rootstock survival.

696. For the reasons explained elsewhere with regards to exemptions for rootstock survival, this amendment is not supported. To provide for exemptions such as these would somewhat defeat the purpose of having restrictions to protect natural and human use values, particularly if the volumes suggested in some submissions for rootstock survival (50% of allocation) are enabled after restrictions are imposed. It would also seem reasonable that if exemptions were provided for rootstock survival, then other water users would seek exemptions to ensure the economic sustainability of their businesses in times of restriction.

697. The Fonterra submission (1251.010) seeks for this Policy to be amended so reductions would be in accordance with the submitters redrafted Policy 5.2.5. Policy 5.2.5 directs that, except for resource consents for domestic and stock water, users will be prevented (through conditions on permits) from taking water below minimum management flows and levels set in the Plan. Fonterra in its submission 1251.004 has sought to amend Policy 5.2.5 to incorporate proportional reduction based on priority, which it established to be (highest to lowest priority) non-consumptive/fire-fighting takes; s14(3)(b) takes; stock/domestic, municipal, welfare and sanitation takes; Class A takes; and then all other takes.

698. The relief sought is unnecessary as the different levels of reduction are already built into the water management regime. For example, the fire-fighting and most s14(3)(b) takes are Permitted Activities and the restrictions would not apply, consented stock and domestic takes (including municipal) do not have restrictions in accordance with Policy 5.2.5, Class A takes

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<sup>44</sup> 479.028 (DOC), 509.055 (Fish and Game), 778.035 (Irrigation NZ), 548.033 (AWUG), 1201.041 (Trustpower Limited) 1124.032 (S MacKenzie), 1189.049 (Ngāi Tahu) and 715.036 (Forest and Bird)

have restrictions, however they are less limiting than “all other takes” therefore there is inbuilt differentiation between Class A and other takes in terms of when restrictions would apply.

699. The Clintondale submission (484.074) references this Policy and seeks that the minimum flows and levels for water takes detailed in Schedule 3 of Appendix 6 have specifically no greater negative impact upon the flows and levels currently imposed.
700. Many of the management flows and levels in Schedule 3 are unchanged from either the existing Plans or previously informal regimes that have been imposed on water permits. There are some FMUs that have new or different limits, and therefore will not be consistent with the relief sought. The notified limits (unless otherwise recommended for amendment in this report) are appropriate and required for the Council to meet its obligations under the NPSFM.

### **Recommendation**

701. It is recommended that Policy 5.2.24, and the associated explanation, are retained as notified.

### **Policy 5.2.25**

702. Policy 5.2.25 reads as follows –

*“Where necessary, review the conditions of existing water permits authorising the taking of water within 24 months of the Marlborough Environment Plan (or any subsequent plan changes) becoming operative to ensure that relevant environmental flows and levels are met.”*

703. There are five submissions<sup>45</sup> that support Policy 5.2.25 and seek its retention as notified.
704. The Fish and Game submission (509.056) seeks retention of the Policy but amended to remove “*where necessary*”, and that greater certainty is provided to decision makers and plan users about when a review of the conditions of water permits will be carried out.
705. In my view, the relief sought is inappropriate and/or unnecessary. The term “*where necessary*” signals that there will not be a blanket approach to review all permits to align them with any new limits in the MEP, but an approach targeted to where there are effects that require a review of conditions prior to the expiry and replacement of a consent. The explanation is quite clear that this Policy will be used in circumstances where the ongoing exercise of a water permit under the restrictions of the previous regime will not safeguard the life-supporting capacity of a water resource.
706. The AWUG submission (548.034) seeks confirmation that if the Awatere River FMU is over-allocated on paper, that will not trigger a review of resource consents under Policy 5.2.25.
707. The MEP, in Policy 5.5.1, states which FMUs are considered to be over-allocated, and for which management will be applied to resolve the over-allocation. The Awatere FMU is not included in the Policy. There is some over-allocation on paper due to the establishment of the FMU boundaries meaning water permits with less of a hydrological connection to the Awatere River proper are now included in the record of consents related to the Awatere FMU. It is not anticipated that this over-allocation will need to be addressed through a review pursuant to Policy 5.2.25. That is not to say that should other submissions to the Plan result in a change in the management flows for the Awatere FMU (or any other FMU) that this Policy would not become relevant for that reason. As the submission only sought information and not specific relief, no recommendation is made.

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<sup>45</sup> 479.029 (DOC), 501.011 (Ngāti Kūia), 1124.033 (S MacKenzie), 1189.050 (Ngāi Tahu) and 715.037 (Forest and Bird)

708. The Irrigation NZ submission (778.036) seeks the following addition to the Policy as notified – *“In doing this, when determining the timeframe to ensure that relevant environmental flows and levels are complied with, have regard to sunk and future investment.”* The submitter is of the view that 24 months is an unrealistic time-frame to ensure the relevant environmental flows and levels are met. Some resource users will have to build storage or upgrade their irrigation infrastructure in order to manage reductions in reliability and this needs to be considered.
709. The submitter has misunderstood the purpose of the timeframe in this Policy. It is to provide certainty to water users that if a review is to be initiated as a result of the MEP becoming operative, then the review will be undertaken within the first 24 months of the life on the Plan. The 24 month period does not place a timeframe of that length of water users to meet the operative flows and levels in the MEP. I do not support the amendment sought as there would be many relevant considerations with regards to a review and it would be inappropriate to single out one of them in particular in the Policy.
710. The Pernod Ricard submission (1039.024) seeks amendment of the Policy to clarify when and how the reviews will occur.
711. When, as discussed above, this Policy will be used in circumstances where the ongoing exercise of a water permit under the restrictions of the previous regime will not safeguard the life-supporting capacity of a water resource. How, the explanation states that the mechanism to be used is s128(1)(b) of the RMA. What FMUs (full, part or multiple) will be reviewed, and for what reason, is relative to the effects on the environment so, except where already foreseen in these provisions (e.g. Policy 5.5.5), that will be determined once the Plan is operative. In many circumstances the limits under the MEP are proposed to be unchanged, therefore permit holders not be affected.
712. The Rai Mussels Limited submission (1087.001) seeks to replace the Policy with a newly worded provision as follows – *“Only where necessary to ensure that relevant environmental flows and levels are met, the conditions of existing water permits authorising the taking of water may be reviewed.”* The submitter is of the view that the proposal to reduce the benefit to the holders of existing water permits by reviewing consent conditions as proposed in Policy 5.2.25 is inequitable.
713. I fail to see any real difference in the submitters wording of the provision to that notified and the rationale for the change would appear to suggest the submitter has misunderstood the Policy. The Council is able to review the conditions of a consent under s128 of the RMA, it does not need a Policy in the Plan to do so, however this Policy was included to provide some certainty to water users that if a review was going to be done with regards to flows and levels, that it would be done within 24 months of the Plan becoming operative. I do not recommend any changes on as a consequence of this submission.
714. The Fonterra submission (1251.011) seeks the deletion of the Policy as it is of the view that there is no need for it as the Council has the power under section 128 to review consents, and adding this policy provides no guidance on when the power will be exercised and hence adds little value.
715. As discussed above, the purpose of this Policy is to provide some certainty to consent holders, however as the submitter reiterates the Council does not need this Policy in order to review the conditions of consent so really there are no consequences for the Council if the Panel is of a mind to remove the provision. I do note that five submitters<sup>46</sup> hold a contrary view to Fonterra (and other submitters above) and clearly see value in retaining this Policy guidance.

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<sup>46</sup> 479.029 (DOC), 501.011 (Ngāti Kūia), 1124.033 (S MacKenzie), 1189.050 (Ngāi Tahu) and 715.037 (Forest and Bird)

716. The Federated Farmers submission (425.046) also seeks the deletion of the Policy as it is of the view that this policy is ultra vires, which it says is based upon the simple fact that a plan cannot fetter a Council's discretion/or direct a council to undertake certain actions where it is up to the council to determine at the time whether such actions should be undertaken. Federate Farmers state that this Policy seeks to remove the ability of the Council to determine that such as review is not the most effective and efficient method available to it to impose a flow and allocation regime, and in its view this is unlawful.
717. I do not agree with the submitter. S128(1)(b) expressly contemplates review of the conditions of consent in circumstances such as this – where a regional plan is made operative setting flow and levels. S128 requires the Council to form a view that it is appropriate to review the conditions of the permit in order to enable the limits set by the Plan to be met. In my view, the wording of Policy 5.2.25 is consistent with s128(1)(b) and does not fetter or direct the Council. The provisions of the Plan cannot override the provisions of the RMA and so in each case, no matter what the Policy says, the Council would have to form the view that it was appropriate, in that particular case, to undertake the review.

### **Recommendation**

718. It is recommended that Policy 5.2.25, and the associated explanation, are retained as notified.

## **Matter 3: Marlborough's social and economic wellbeing relies on an adequate supply of freshwater.**

719. Matter 3 includes - Issue 5C, Objective 5.3 and Policies 5.3.1 to 5.3.16 (inclusive). Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

### **Issue 5C**

720. Issue 5C reads as follows –

*“Marlborough's social and economic wellbeing relies on an adequate supply of freshwater.”*

721. There are three submissions<sup>47</sup> that support Issue 5C and seek its retention as notified.
722. The relief sought in the Nelson Forest Limited submission (990.171) is specific to the provisions controlling commercial forest planting and replanting in an afforestation flow sensitive site, so I will address the submission when considering Policies 5.3.15 and 5.3.16 and any associated provisions. However, in the reasons for seeking this relief reference is made to Issue 5C and the submitter expresses the view that the Issue focuses only on the abstractive value of freshwater, and states that all of Marlborough's social and economic wellbeing relies on an adequate supply of freshwater, which is not correct as some industries, such as plantation forestry do not rely on it.
723. I have reread the Issue and, in my view, nowhere does it say that all the regions social and economic wellbeing relies on freshwater, however in a chapter about water management it is understandable that the focus is on how important it is to those people who do rely on it, from drinking water to irrigation to industrial use. As referenced above, the relief sought in this submission point is specific to the afforestation flow sensitive site provisions so there is no further assessment at this time.

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<sup>47</sup> 425.025 (Federated Farmers), 962.013 (MFIA), and 1238.007 (Windermere Forests Limited)

724. The relief sought in the MFIA submission (962.013) supports the retention of the Policy as notified, and is recorded as such above and in Appendix 1, however its submission 962.036, also on Issue 5C seeks that the Issue recognise that plantation forests do not abstract water, and therefore forestry does not rely on water in comparison to other primary industries. This is a little at odds with the initial submission, which states that the increasing supply of mature forest in Marlborough offers the opportunity for a new wood processing facility to be developed, and such industries usually require access to a water source.
725. In my view, the recognition sought is not necessary or appropriate, the Policy does not identify other industries that are operating without abstracting water so I am not clear why forestry would be singled out. The later provisions around forestry are about the effect it can have on sustainable river flows and other water users, there is no suggestion that water is abstracted to irrigate forested land.

### **Recommendation**

726. It is recommended that Issue 5C, and the associated explanation, are retained as notified.

### **Objective 5.3**

727. Objective 5.3 reads as follows –

*“Enable access to reliable supplies of freshwater.”*

728. There are sixteen submissions<sup>48</sup> that support Objective 5.3 and seek its retention as notified.
729. The Fish and Game submission (509.057) seeks the amendment of the Objective to refer to the sustainable management of freshwater resources and ensure that access to freshwater is only enabled where the FMU is sustainably managed to align with the purpose of the RMA.
730. There are other parts of Chapter 5 that are focused on the matters raised, and in conjunction with provisions responding to Issue 5C such as Policy 5.3.3, which ensures allocation limits reflect the safe yield of an FMU, in my view, the concerns are adequately in the notified water management provisions as a whole.
731. The Fish and Game submission (509.069) seeks the addition of a new policy under Objective 5.3 that implements common catchment expiry and review conditions for each catchment to ensure consents can be reviewed and cumulative adverse effects appropriately managed.
732. This is an option that was considered during the review process by the Council and the WAWG, and there is an awareness that some other regions take this approach. It would be fair to say that there has not been a significant issue identified with the way in which water permits have been granted over the past 20 years or so (not with common expiry dates) that would warrant such a complete upheaval of the regions water permits. And if, as an outcome of the MEP a new limit has to be imposed on all the water permits in a particular FMU, then s128 of the RMA can be utilised to do that irrespective of the expiry dates of the consents.

### **Recommendation**

733. It is recommended that Objective 5.3, and the associated explanation, are retained as notified.

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<sup>48</sup> 370.006 (K Saville-Smith and B James), 962.014 (MFIA), 431.006 (Wine Marlborough), 457.006 (Accolade), 473.005 (Delegat Limited), 1218.006 (Villa Maria), 425.029 (Federated Farmers), 484.008 (Clintondale), 1238.008 (Windermere Forests Limited), 776.003 (Indevin Estates Limited), 688.018 (J and J Hellstrom), 715.038 (Forest and Bird), 1201.042 (Trustpower Limited), 909.006 (Longfield Farms Limited), 1039.025 (Pernod Ricard) and 908.003 (Lion)

### Policy 5.3.1

734. Policy 5.3.1 reads as follows –

*“To allocate water in the following order of priority:*

*(a) natural and human use values; then*

*(b) aquifer recharge; then*

*(c) domestic and stock water supply; then*

*(d) municipal water supply; and then*

*(e) all other takes of water.”*

735. There are six submissions<sup>49</sup> that support Policy 5.3.1 and seek its retention as notified.

736. The Ngāti Kuia submission (501.012) seeks the amendment of (a) to read – “**mauri and instream including ~~natural and human use values~~**”, no reason or further discussion is in the submission to assist in understanding the concern this relief seeks to address.

737. The notified text reflects earlier provisions, which are clear that natural and human use values include protecting mauri and instream values. It is of concern that the amendment may narrow what is intended to be protected by the prioritisation of natural and human use values at (a) in this Policy, and the relief sought is therefore not supported.

738. The Te Ātiawa submission (1186.039) is similar to the Ngāti Kuia submission in that it seeks for cultural values to be inserted into the hierarchy of water allocation, either at (a) or (b). The submitter acknowledges that natural and human use values are the highest on the ladder but states that cultural values are not human use values. Further, iwi value water not for use but for cultural and spiritual purposes, and a hierarchy without cultural values is contrary to the statutory documents, the Te Ātiawa Iwi Management Plan, and the Treaty of Waitangi.

739. As discussed above, natural and human use values include the protection of mauri and the use of this terminology links back to Objective 5.2 and the subsequent Policies that give effect to that provision. In my view, the MEP, rightly or wrongly, considers cultural values to be part of “natural and human use values”, in the manner in which that phrase is used in the water management context. If there is an issue with that, I suggest that it be addressed back in the provisions addressing Issue 5B, and then any resulting changes be brought through to Policy 5.3.1, rather than amending this provision directly at this time. As it seems this is a matter requiring further discussion, I have not recorded a recommendation at this time.

740. The EDS submission (698.022) seeks the addition of a new (a) to read “**to the waterbody in the quantum required to safeguard its life supporting capacity; then**”, and the amendment of the existing (a) to then say “other natural and human use values”. The submitter is of the view that the first allocation priority should be to the waterbody itself in the amount required for it to sustain its life supporting capacity as this is required under s5 RMA and the NPSFM.

741. I agree with the submitter in terms of what should be the first allocation, and it is, under the notified provisions. The submitter does not appear to have understood from the earlier provisions that “natural and human use values” includes ensuring sufficient environmental flows and levels to safeguard life supporting capacity. While in essence the Policy already addresses the concern raised, to be clear, I do not support any amendment of the Policy as sought and the recommendation in Appendix 1 reflects this view.

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<sup>49</sup> 962.015 (MFIA), 479.030 (DOC), 712.037 (Flaxbourne Settlers Association), 715.040 (Forest and Bird), 998.002 (NZ Pork) and 1238.009 (Windermere Forests Limited)



742. The Ngāti Toa submission (166.006) seeks that (c) and (d) are switched as they see no justification in prioritising domestic and stock water supply over municipal water supply.
743. In reality there probably is not a lot between (c) and (d) in terms of priority, however the volumes involved in municipal supplies result in the take and use requiring resource consent rather than being a Permitted Activity, and municipal supplies often involve supplying water for uses beyond stock and domestic, such as commercial and industrial. In my view, the slight difference in priority is appropriate.
744. The NMDHB submission (280.013) similarly seeks that municipal water supplies be given a higher priority, as the submitter is of the view that this Policy is inconsistent with Policy 5.3.4, which seeks to establish allocation volumes, and avoid applying management levels and flows, for municipal water supplies, as that provision is not reflected in the low priority for water allocation in Policy 5.3.1. Further, the NMDHB notes that natural and human use values are the first priority, aquifer recharge second priority and domestic and stock water supply third, however, natural and human use values, largely relate to water quality parameters rather than types of consumptive use or instream values so do not seem to correlate with the intent of the Policy. Also, as other MEP policies place allocation limits on water resources to protect natural values, it is questioned whether Policy 5.3.1 should only address the prioritisation of consumptive uses.
745. It appears the NMDHB have misunderstood the provisions as a whole and viewed the placing of municipal supply at (d) as low. Policy 5.3.4 does in fact assist to implement Policy 5.3.1 as the municipal supply specific allocations, and the lack of restrictions, differentiate these takes from other consents takes, i.e. at (d) municipal allocations have higher priority than takes in the general allocation pool that carry restrictions. As indicated in the assessment of the Ngāti Toa submission, the difference in actual priority between (c) and (d) is technical more than any significant difference in priority. It is acknowledged that Appendix 5 serves a dual purpose – water quality and water quantity, however it is still relevant to recognise in this Policy that natural and human use values are the first priority. Water needs to be “allocated” to these values first but this may manifest itself in different ways, such as a minimum flow ensuring a certain volume of water remains “allocated” to the river to maintain these values. The submitter identifies municipal water supply as a critical use and suggests that that it should be given higher priority than aquifer recharge, if the recharge of the Wairau Aquifer FMU is not protected by a high priority allocation there may not be any municipal water supply for the majority of urban dwellers in Marlborough.
746. The Trustpower Limited submission (1201.049) seeks the removal of this Policy entirely as it considers the provisions is unclear as the MEP does not seek to allocate blocks of water to any particular uses and any new resource consent application to take water within the allocation blocks in Appendix 6 would need to be considered in the first in, first served basis. Furthermore, Policy 5.3.1(a) refers to allocating water to natural values, which are already provided for via the setting of environmental flows and/or levels in Policy 5.2.4.
747. In a sense much of what the submitter states is correct, however I do not agree with its conclusion that this means that the Policy should be removed. Water allocated under (e) will be granted on a first in, first served (or ballot) basis, and the method of allocating to the environment in (a) is by way of setting limits, this does not lessen the validity of this Policy. In terms of allocating blocks to particular uses, in the MEP this has been done in terms of allocations for municipal supply water.
748. The AWUG submission (548.035) does not seek any specific relief for which an assessment or recommendation can be made. It is noted that the submitter comments on the importance of the municipal water supply in the Awatere, and is concerned the importance of irrigation takes for primary production are not better reflected in the proposed hierarchy. The latter issue is raised by others so the submitters comments are likely to be addressed elsewhere.

749. The Federated Farmers submission (425.047) does not seek any specific relief for which an assessment or recommendation can be made but makes comments and asks questions. For the benefit of the submitter, and perhaps the Panel, I will try and briefly address some of the matters raised. The submitter is unclear how the prioritisation will be applied, in short, (a) is linked back to Issue 5B, (b) is through the limits set for the Wairau Aquifer FMU, (c) is by way of Permitted Activity, (d) is detailed in Policy 5.3.4, and (e) through the environmental limits in Appendix 6. The submitter is also not clear on what is meant by natural and human use values, this is addressed under Issue 5B. It is appropriate that domestic and stock drinking water is included in this Policy as it sets out the overall approach to allocation, not just allocation in terms of consented use. Municipal water supplies have priority over other users as they are central to the supply of domestic and stock water to urban areas, however it is acknowledged that water is used for other purposes, and therefore by association some non-domestic users gain a priority over other non-domestic users taking water directly. Dairy NZ lodged a similar submission (676.027) with regards to natural and human use values, also with no specific relief sought.
750. The Forest and Bird submission (715.039) seeks amendment of the Policy to refer to "stock drinking water", as in its view it appears that the Policy is intended to provide for the reasonable needs of an individual's animals drinking water needs consistent with section 14 (3)(b)(ii) rather than all water needs. I am not clear whether the submitter has overlooked (c) or considers the way (c) has been worded relative to stock water is not appropriate. On the basis that Forest and Bird has not picked up the reference to stock water in (c), I have recorded the submission as being accepted, as the relief sought is already provided for. If this is not correct, then the submitter may clarify the point in its hearing evidence.
751. The FENZ submission (993.005) seeks amendment of the Policy to add firefighting to (c) as it seeks recognition that of the priority given to water to be taken and used for firefighting purposes under section 14(3)(e) of the RMA.
752. This Policy is about allocating water for different uses, not simply enabling the take and use of water, and as such it is not appropriate to "allocate" water for an emergency activity. The activity is in no way limited by not referencing it in this Policy as it is clearly enabled through a Permitted Activity rule that reflects the enablement under the RMA.
753. The Irrigation NZ submission (778.037) seeks amendment of the Policy to remove (a), (b) and (d), and add firefighting to (c) as it is of the view that this Policy confuses setting limits with the allocation of water. When setting limits (policies 5.2.4 and 5.2.11) factors such as natural and human use values and aquifer recharge should be considered. When allocating water this is a decision around who gains access to it for abstractive use. The Policy should be changed to reflect the priorities within the RMA - domestic, stock and firefighting.
754. The amendments sought do not reflect the submitters argument – it seeks to remove municipal water supplies, which is an abstractive use akin to (c) and to some extent (e), add in firefighting, which is an emergency activity that, by its nature, is not something you can "allocate" water for and, given the Wairau Aquifer FMU "removes" water from the Wairau River FMU for ultimate abstractive uses (among other uses), aquifer recharge is a form of allocation. The Policy gives effect to Objective 5.3, which is about enabling access to reliable supplies of freshwater, this is not limited only to activities for which an allocation is expressed in Appendix 6.
755. The Clintondale submission (484.009) seeks addition of a new (e) before the existing (e), which would read – "**irrigation water supply for primary industry; and then**", as the submitter is of the view that Objective 5.3 recognises that a reliable and suitable water supply can result in significant improvements in primary production, however, Policy 5.3.1 accords no priority to the provision of water to primary industry and presumably accords it the least priority, placed in the "all other takes of water" category. The Levide Capital Limited

submission (907.002) seek similar relief and relates that to the need permanent crops have for a constant application of water. The Pernod Ricard submission (1039.026) seeks similar relief in that “*irrigation*” is prioritised over “*all other takes*”, no justification is given for the amendment sought.

756. The submitter is rather selective in what they have taken from the explanation to Objective 5.3, as it actually says that “*a reliable and suitable water supply....can result in significant improvements in primary production, commercial and industrial outputs*” (my emphasis). In drafting the water management provisions great care was taken to ensure the Plan did not “pick winners”, which is one of the reasons the notified (e) generically covers all other takes. In my view, this is entirely appropriate, and the range of submissions on this Policy that have submitters seeking to gain greater priority for the use of interest to them, supports this consistent approach. In addition, it is not clear from the submission how a greater priority for primary production would manifest itself in the provisions implementing Policy 5.3.1. The activities covered by the notified (e) have an allocation of water in Appendix 6 from which they can all seek consent to have a part, if abstractions for primary production were to be prioritised over, say, commercial and industrial uses, then would that mean creating an allocation specific to those different uses? How would you determine what volume to allocate to different uses? Further, if a non-primary production user wanted to change to a primary production activity (or vice versa), they would be prevented from doing so if either use type was full allocated, this could potentially limit development in the region.
757. The Rai Mussels Limited submission (1087.002) seeks that (d) is amended to read – “*municipal water supply **and any other take for industrial or commercial use; and then***”, and notes that this amendment may require consequent changes to other parts of the Plan and possibly a definition of “industrial” and “commercial”. And, it also seeks for (e) to be amended to rank other specific categories of take based on the economic value/unit of water used as the submitter is of the view that industrial and commercial takes should rank ahead of most takes for irrigation, and those would rank ahead of takes for hydro-electric power generation. Water for industrial and commercial uses impacts directly on whether a business can operate or must cease operating. If a business ceases operating it can no longer pay its employees, its suppliers or service its customers. Irrigation is extremely important but if irrigation water is cut off due to a seasonal shortage of water, in most cases some production will be lost but the business will survive. This is in stark contrast to industrial and commercial takes where the business and related employment and production is likely to be severely harmed if water is cut off. It is not rational to treat industrial and commercial takes of water from other sources as having a lower priority than commercial and industrial users who obtain water through a municipal scheme.
758. This submission illustrates the point made above about the Plan taking a consistent approach to “*all other takes*”, as most businesses view their water use has the one that warrants greater priority, so which one would be chosen? For the most part my assessment of the submissions above, which seek for primary production water use to have greater priority, apply to this submission also.
759. One point of difference that should be considered further however, is the priority that commercial and industrial water users on a municipal supply (covered by (d)) have over the same type of users that are not accessing water through a municipal supply (included in (e)). This is an issue that was raised and considered thoroughly during the review process, however at the end of the day the Council has zoned specific areas for commercial and industrial activities, and that zoning is in part based on the provision of water by the Council. If operators of activities of that nature locate themselves in zones that are not commercial or industrial, then it is appropriate that they are considered in the same manner as any other user under (e). I accept this is not an absolute defence as there are many very practical reasons why commercial and industrial users may be located in zones such as rural environment but I do not find the submitters solution to this issue to be better than the approach taken in the MEP. I am also aware that irrigation water users view there to be an

inequity between their activity and commercial/industrial users under municipal supply, therefore resolving this matter in the manner proposed would not resolve the sense of inequity for all parties.

760. The Horticulture NZ submission (769.020) seeks amendments to the Policy (and associated amendments to the explanation) as follows –

*“To allocate water in the following order of priority:*

*(a) **essential domestic supplies;***

*~~(a)~~ ~~(b)~~ ~~natural and human use values~~ **identified for the FMU;** then*

*~~(b)~~ ~~(c)~~ **aquifer recharge;** then*

*~~(c)~~ ~~(d)~~ **domestic and stock water supply;** then*

***(e) capital rootstock and crop survival water;** then*

*~~(d)~~ ~~(f)~~ **municipal water supply;** and then*

*~~(e)~~ ~~(g)~~ **all other takes of water.”***

761. The submitter notes that it has sought that provision for capital rootstock and crop survival water be included in the Plan, and is of the view that they should be added to Policy 5.3.1. The other amendments are sought to ensure that essential domestic supplies are accorded a priority as opposed to municipal water supply. As the submitter’s submissions seeking provision in the Plan for capital rootstock and crop survival water have not been supported, the amendment here in that regard is equally not supported. The other amendments, I am struggling to understand what the submitter is trying to achieve, what its concerns are, therefore I am more comfortable leaving the Policy as notified at this stage.

762. The NZDF submission (992.008) seeks amendments to separate the Policy into intrinsic values and aquifer recharge; and consumptive uses, and to insert appropriate recognition for regionally significant infrastructure (including defence facilities), for example by adding “**and regionally significant infrastructure water supplies**” to (d). The submitter is of the view that, while it is appropriate to recognise the various uses of water including intrinsic values, the Policy should also recognise the importance of certain takes for activities that provide a wider community and nationwide benefit, including security, as provided by NZDF. Separating this policy into two sections (or into two separate policies) would improve the clarity of this Policy.

763. I do not support the addition sought as in my view, it could give unintended priority to a range of water allocations that may relate to regionally significant infrastructure, as it is referred to in the MEP. The water supply for Base Woodbourne would receive priority under this Policy as it provides a domestic water supply (c), and even though it may be consented, the effect of Policy 5.2.5 is that no restrictions would be placed on the allocation, which again gives it higher priority than other water takes (e). Specifying regionally significant infrastructure water supplies in (d) as sought runs in to a similar issue as discussed above, how would this manifest itself in the provisions that give effect to this Policy – would it require the establishment of allocation blocks specifically for regionally significant infrastructure?

764. I am not convinced by the submission that the Policy would benefit from being split, or that this would provide greater clarity to Plan users, if there is a need for clarity.

765. The Fonterra submission (1251.012) seeks amendments to the Policy as follows –

*“To allocate **establish a water quantity management framework that:** ~~in the following order of priority:~~*

*(a) **provides for:***

*(i) ~~natural and human use values;~~ then*

*(ii) ~~(b)~~ ~~aquifer recharge;~~ then*

*(iii) ~~(c)~~ ~~domestic and stock water supply;~~ then*

*(iv) ~~(d)~~ ~~municipal water supply;~~ **and then***

(b) **recognises:**

(i) **non-consumptive human use values;**

(ii) **takes for non-consumptive use; and then**

(c) **to the extent that the values and uses in (a) have been provided for, ~~(e)~~ all other takes of water.”**

766. The submitter is of the view that this Policy is confusing as priority lists like the one notified are generally used as an alternative to a first in, first served allocation regime (in conjunction with common catchment expiry), and/or in the context of restrictions that may be imposed during water shortages/low flows. And it is not clear if Policy 5.3.1 is intended for either of those contexts or, rather, as a high level direction about the order in which certain values and takes have been provided for in the MEP rule framework. However, given the introductory words of the Policy (and some of the wording of the explanation) it seems likely that there will be misunderstanding and possible misuse of the Policy.
767. I am struggling to appreciate the submitters concerns, its confusion seems to be one of its own making based on making assumptions about the Policy relative to its experience in other regions. The Policy has nothing to do with first in, first served, which, to put it probably a little too simply, is a case law based concept based around the order of granting resource consent applications. And while low flow restrictions are dealt with elsewhere in the MEP, there is somewhat of a relationship (appropriately) with this Policy as there are some uses for which the priority manifests itself as a lack of restrictions.
768. The submitter is also of the view that the MEP should give recognition to takes for non-consumptive uses, and that such takes should be recognised in the Policy. And, are concerned at the priority accorded to “human use values” over other uses such as domestic/stock and municipal supplies. These concerns mirror those expressed and assessed in other submissions Fonterra has lodged, particularly relative to the Issue 5B suite of provisions. Overall, I do not find the amendments to Policy 5.3.1 sought by the submitter to be beneficial to this Policy, or assist in giving effect to Objective 5.3. In my view, the changes complicate the Policy and, in essence, actually remove the concept of prioritisation that is the purpose of the provision.
769. The J Kerry submission (811.002) raises several issues but is considered here as there is a focus on priority in the submission, in that the submitter wants the MEP amended to ensure the Plan prioritises the water rights of individuals (e.g. to water vegetables and fruit trees) over industry. In addition, there are a number of matters raised in the submission that are out of the scope of either the MEP or this hearing topic, or are covered elsewhere in this report. These include – the exportation of water out of Marlborough, the charging of industry for taking water, more control so growth is not at the expense of the viability of our long-term water security, greater diversification in land use, and the Plan allow residents to override any decision regarding fluoride that the NMDHB might make.
770. It is likely that the MEP does provide for individual water users in the manner sought, however given amendments (not detailed) are sought, and there are many other matters raised in the submission, it is not appropriate to recommend acceptance of the submission.
771. The R Parkes submission (324.001) does not seek any specific relief for which an assessment or recommendation can be made, however indicates a view that rural business and agriculture, which includes viticulture and commercial development, are a higher priority than other values. Possibly the assessment of other submissions may be relevant to the concerns of the submitter.

### **Recommendation**

772. It is recommended that Policy 5.3.1, and the associated explanation, are retained as notified.

### Policy 5.3.3

773. Policy 5.3.3 reads as follows –

*“Confirm and, where they have not previously been set, establish allocation volumes that reflect the safe yield from any Freshwater Management Unit over and above the management flows/levels set through the implementation of Policies 5.2.4 and 5.2.10.”*

774. There are eight submissions<sup>50</sup> that support Policy 5.3.3 and seek its retention as notified.

775. It is appropriate at this point to note that Policy 5.3.3. has an error and the reference to Policy 5.2.10 should be to Policy 5.2.11. Policy 5.2.11 is the provision that sets the limits for aquifer dominated FMUs, and is the companion policy for 5.2.4, which sets the limits for river dominated FMUs. This correction has been included in the Recommended section below for completeness.

776. The Federated Farmers submission (425.048) seeks the removal of this Policy from the MEP as in its view it is superfluous. The submission point contains no further information. I disagree.

777. The Fish and Game submission (509.060) seeks the removal of this Policy from the MEP as it seems to have interpreted this Policy as enabling the allocation of water beyond limits, when in fact it is the Policy that sets the limits, which cannot be exceed.

778. The Trustpower Limited submission (1201.050) seeks the removal of this Policy from the MEP as it is of the view that the establishment of environmental flows and/or levels as defined by the NPSFM should include the minimum flows and allocation limits for use. This should be recognised in Policy 5.2.4, given that it uses the definition of environmental flows and/or levels from the NPSFM. As such, Policy 5.3.3 should be deleted and the establishment of flow and allocation limits should be undertaken in an integrated manner within Policy 5.2.4.

779. The submitter is correct in its description of an environmental flow or level under the NPSFM, and this reflects text in the explanation to Policy 5.2.4. However, in my view, the relief sought to resolve the matter raised is not the most appropriate response and some minor amendments of the wording of Policy 5.2.4 would resolve the issue, and maintain the intent of all the relevant Policies. Policy 5.2.11 correctly referenced setting “*minimum levels*”, and Policy 5.2.4 should have similarly referenced setting “*minimum flows and/or levels*” (rather than environmental flows and/or levels). I have provided specific amended wording in the Recommendation section for Policy 5.2.4, I have also noted a consequential amendment to Policy 5.2.5 in the Recommendation section for that provision. No changes to Policy 5.3.3 are recommended a consequence of this submission, however I have recorded the recommendation in Appendix 1 as accepted in part as the matter raised is does lead to a suggested amendment, although not of this Policy.

780. The DOC submission (479.031) seeks the amendment of the Policy as follows –

*“~~Confirm and, where they have not previously been set, establish~~ **Establish** allocation volumes that reflect the ~~safe~~ **safe sustainable** yield from any Freshwater Management Unit over and above the management flows/levels set through the implementation of Policies 5.2.4 and 5.2.10, **considering the effects of the allocation on the natural functioning of the FMU and freshwater habitats.**”*

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<sup>50</sup> 501.013 (Ngāti Kuia), 1039.028 (Pernod Ricard), 1124.035 (S MacKenzie), 962.017 (MFIA), 712.062 (Flaxbourne Settlers Association), 778.039 (Irrigation NZ), 715.042 (Forest and Bird), and 1238.011 (Windermere Forests Limited)

The submitter is of the view that the setting of allocation limits should consider the effect of abstraction of that allocation on the natural functioning of the water body and any impacts of the allocation on freshwater habitats.

781. I am not quite clear from the submission why the submitter does not consider that the reference to allocations being over and above the minimum flows and levels set for FMUs addresses its concerns. As described in Policies 5.2.4 and 5.2.11, and surrounding provisions, those minimums are set to maintain natural values, which include protecting instream habitat and ecology, and maintaining fish passage and fish spawning grounds, amongst many other related matters. The opening phrase of the Policy, which is sought to be removed, recognises that this is not a first generation plan, and allocation regimes for many waterbodies/FMUs are already in place, therefore reviewing and confirming those limits, rather than establishing them, is appropriate. Subject to further evidence at the hearing, I do not see the need to amend the Policy as sought.
782. The AWUG submission (548.037) seeks the amendment of the explanation to the Policy to recognise that Class A and B allocations provide for the pumping into storage, in addition to run-of-the-river irrigation, and other instantaneous uses. And to note Class C to be primarily, rather than specifically, for storage purposes as it can be utilised for direct irrigation at lower reliability. The submitter states as the reason that the WAWG developed this Policy with the provision that both Class A and B water could be pumped to storage.
783. Through the work of the WAWG a Policy was developed to enable Class A and B to be pumped to storage during the irrigation season if all of a permit holder's allocation was not utilised for irrigation, however this is not the Policy, it is Policy 5.8.3. The changes sought are not appropriate, and are inconsistent with other provisions, particularly those under Issue 5H. Class A and B water is primarily for instantaneous use, and Class C is primarily for storage, and the water management regime has been established on this basis. That is not to say other secondary uses have not been enabled to some degree, or could be applied for, but in my view, it is important to be clear about the primary purposes of these classes of water as the overall regime is established on this basis, and it does not set up unrealistic expectations.
784. The EDS submission (698.023) seeks the amendment of the Policy to more clearly establish its purpose and provide a management framework for how that purpose is to be achieved as the submitter is of the view that the intent of the Policy is not clear and it could be interpreted as allowing over-allocation. Alternatively, it could be interpreted to require quantification of the allocable quantum of water above the limit and provide for the ability to set reliability bands for takes and specify how this is to be managed within the limit.
785. This is similar to the concerns raised by Fish and Game above, and I feel like I am missing something as I do not understand how the parties are reading this Policy as enabling over-allocation, especially when read in the context of the explanation. As I have already said, this is the Policy for setting limits that cannot be exceeded. All I can think is that the concerns may relate to the terminology issue with Policy 5.2.4 as discussed and resolved in relation to Fonterra's submission above, if this is the case then hopefully the recommended changes to that provision assist.

### **Recommendation**

786. It is recommended that Policy 5.3.1 is amended to correct the following error in referencing –

*“Confirm and, where they have not previously been set, establish allocation volumes that reflect the safe yield from any Freshwater Management Unit over and above the management flows/levels set through the implementation of Policies 5.2.4 and 5.2.4011.”*

787. It is recommended that the explanation associated with Policy 5.3.1 is retained as notified.

### Appendix 6 – Schedule 1

788. Schedule 1 of Appendix 6 is titled “*Quantity Allocations for Water Takes*”. The following submissions are those made on Schedule 1 of Appendix 6, which implements Policy 5.3.3.

789. There are 16 submissions<sup>51</sup> that support Schedule 1 and seek its retention as notified. On the basis that I have recommended amendments to Schedule 1 as a consequence of other submissions, the recommendation for these 16 submissions in Appendix 1 are recorded as accepted in part.

790. It should be noted that the submission points on Appendix 6 in general, are assessed under Issue 5B however they are equally relevant here as the submissions, for example seeking retention of Appendix 6 as notified, apply to minimum flows/levels and quantity allocations.

### **General submissions on Schedule 1 of Appendix 6**

791. The Fish and Game submission (509.369) states that all waterbodies in the Region need to be within a defined and/or described FMU. The Plan needs to be amended to ensure that there are no FMU’s that are not specifically defined on either the FMU Maps or described in the Schedules or both to ensure that the NPSFM is appropriately given effect to.

792. The submitter is correct, and the Plan gives effect to the NPSFM in this regard, as ultimately all waterbodies are captured within FMU Overlay Map 5. So, on the basis that the relief sought is already provided for, the submission is recommended for acceptance in Appendix 1.

793. The Fish and Game submission (509.372) seeks to amend Appendix 6 for each FMU so that it clearly identifies which monitoring site or sites are used and what allocation limit applies to each FMU to ensure that the relationship of allocations between rivers and their tributaries is clear, and the relationship between the allocations of different tributaries are clear. For example, it is not clear from the Appendix whether the total allocations for the Rai, including Opouri, Tunakino and Ronga FMU’s and the FMU’s for these tributaries separately are intended to be inclusive i.e. the Tunakino allocation is included in the Opouri allocation or whether these are intended to be considered separately.

794. I do not understand the clarity sought regarding the monitoring sites, the fourth column in Schedule 3 clearly provides that information, and it notes that they are mapped on the FMU Overlay Maps. Regarding the example, it is what it says it is, again I do not understand the submitter’s confusion – the Rai, Opouri, Tunakino and Ronga FMU’s are all mapped and all have allocation limits, and it is stated that the Rai allocation limit includes the allocation limits for the Opouri, Tunakino and Ronga FMU’s.

795. The Fish and Game submission (509.373) does not seek relief for which an assessment or recommendation can be made, they only seek information regarding the intended application of allocation limits in Schedule 1 of Appendix 6 to clarify whether the limits per day are independent or cumulative? It appears that they are intended to be independent but clarification is needed. I am not clear on the confusion so I cannot be of much assistance, except to say an allocation of say, 83250m<sup>3</sup>/day of Awatere FMU Class A water means permits will be granted for individual allocations that add up to the total Class A limit for the FMU.

796. The Fish and Game submission (509.374) seeks the amendment of the allocations in Schedule 1 as follows –

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<sup>51</sup> 181.001 (Andebrook Farming Limited), 342.002 (Willow Flat Farm Limited), 359.038 (WilkesRM Limited), 835.001 (Osgro Seed Service), 1218.079 (Villa Maria), 1231.001 (Waihopai Valley Vineyards Limited), 1248.001 (J Fowler), 479.272 (DOC), 473.069 (Delegat Limited), 475.009 (J Timms), 484.073 (Clintondale), 746.001 (G Webb), 1201.159 (Trustpower Limited), 776.048 (Indevin Estates Limited), 909.080 (Longfield Farm Limited), 970.019 (Middlehurst Station Limited)



- For river dominated FMUs with flows less than or equal to  $5\text{m}^3/\text{s}$ , an allocation limit of 30% of MALF as calculated by the Council or the total allocation from the catchment, less any resource consents surrendered, lapsed, cancelled or not replaced.
- For river dominated FMUs with mean flows greater than  $5\text{m}^3/\text{s}$ , an allocation limit of 50% of MALF as calculated by the Council or the total allocation from the catchment, less any resource consents surrendered, lapsed, cancelled or not replaced or where studies indicate a higher or lower (than that proposed in the PNESEF) percentage allocation is necessary to preserve values, this should instead be adopted.
- For shallow, coastal aquifer dominated FMUs, an allocation limit of 15% of the average annual recharge as calculated by the Council or the total allocation from the catchment, less any resource consents surrendered, lapsed, cancelled or not replaced.
- For other aquifer dominated FMUs, an allocation limit of 35% of the average annual recharge as calculated by the Council or the total allocation from the catchment, less any resource consents surrendered, lapsed, cancelled or not replaced.

797. Peter Davidson has considered this submission regarding the parts of the submission relating to aquifer dominated FMUs, and the following is his advice –

- The approach in the proposed allocation regimes is too simplistic for aquifers.
- The relief sought does not account for natural differences in reservoir size, recharge rate or boundary issues associated with the Wairau Plain groundwater systems.

798. Val Wadsworth has considered this submission regarding the parts of the submission relating to river dominated FMUs, and his responses to many of similar submissions of Fish and Game's apply to this submission also. No changes to Schedule 1 are recommended as a consequence of this submission.

799. The Fish and Game submission (509.375) seeks, as an alternative allocation mechanism, flow sharing between the river and out of stream uses ensuring that 20% of the instantaneous flow is allocated at any one time, or one for one flow sharing, and applied to all FMUs. The submitter seeks the implementation of a rationing/roster system to achieve a higher minimum. No reasons or rationale are provided for the relief sought.

800. Val Wadsworth has considered this submission and the following is his advice –

- Val finds this to be a very confusing submission.
- Firstly, Val thinks that the submitter means that no more than 20% of the flow is allocated at any one time.
- The reference to all FMUs would also capture aquifer dominated FMUs, which is outside the Fish and Game scope of interest and intent Val would think.
- The 1:1 flow sharing is a common theme from Fish and Game. Many of our rivers still have the 2:1 flow sharing, but unfortunately, we do not seem to have a narrative around that in the MEP. For rivers with upstream monitoring flow sharing is built into the class, for those with downstream monitoring it is supposed to be built into the buffer between classes, although some tweaking may be necessary here.
- Val recommends that information about flow sharing is added to the MEP, but that the 2:1 ratios should be retained. The additional information has been recommended to be added to the explanation to Policy 5.2.15, please see that part of this report.

801. Based on the uncertainty with the intent of the submission, the lack of information in the submission, and based on the advice of Mr Wadsworth, no changes to Schedule 1 are recommended as a consequence of this submission.
802. The Fish and Game submission (509.376) seeks amendment of Schedule 1 to include instantaneous rate of take for all allocations rather than using a volume-based method for allocation, as the allocating water on a volume basis is concerning to the submitter as it potentially allows a very high instantaneous rate of take, which is the critical limiting factor for trout fisheries, rather than overall volumes taken. This matter is covered in a similar submission of Fish and Game's on Policy 5.3.9.
803. The Fish and Game submission (509.370) seeks to ensure that all minimum flows and allocation volumes are measured at the same point(s) in each FMU and WRU.
804. There is insufficient information in the submission to really understand the issues of concern the relief sought is seeking to resolve. I do not understand what the submitter means by measuring allocation volumes at a monitoring point – the allocation limit in Schedule 1 is a figure that resource consents will be assessed against to ensure individual allocations do not exceed the Plan limit, it is not something that is measured “in the field” so to speak. With regards to using the same monitoring points for FMUs and WRUs, this would be inappropriate, monitoring needs to be fit for purpose and it cannot be assumed that water quantity and water quality monitoring would necessarily take place at the same sites.
805. The Fish and Game submission (509.013) seeks clarification of the relationship between water resource availability and the allocation limits set to ensure that limits set are actually within a realistic standard and align with the requirements of the PNESEF. And, the introduction of new objectives, policies, and rules to underpin freshwater management, environmental flow and level setting, and surface and groundwater allocation in the Marlborough Region. In the submitters view, the allocation limits set in Schedule 1 of Appendix 6 do not link to the management flow or level in Schedule 3 of Appendix 6. There is no proof to show that the level of water allocated can actually be provided. There is insufficient information to underpin the allocation framework, environmental flows, and the management of freshwater in general. The complexity in the proposed plan limits its effectiveness and readability.
806. Val Wadsworth has considered this submission and the following is his advice –
- This submission seems to think that making an allocation guarantees water availability; where they get that impression from is unclear.
  - In the formulation of the WARMP, MDC introduced a multi-class allocation system, as did some other Councils at the same time. This system was carried through into the MEP, and is introduced in Volume 1, Policy 5.3.3, which says in part – “*Class A water permits have an inherently greater reliability, due to their lower restrictions, than Class B*”. This clearly indicates that each class has a reliability factor, and is not guaranteed.
  - Volume 1, Objective 5.8 is titled “*Maximise the availability of water within the limits of the resource*”, and goes on to discuss Class C takes, storage, and other opportunities to take and store higher flow water, when available. Again, pretty clear that there is nothing guaranteed.
  - The allocations are within the natural flow range of each river, therefore they are realistic, with the obvious caveat that they are not available all the time. Val does not see any need to detail within the Plan the various levels of availability, that is part of the due diligence of a prospective water user, and Council does make actual figures available to those people on request.
  - References to the PNESEF are largely irrelevant.

- The key thing is that each class has upper and lower limits, which it is constrained by, and those limits are set with the intent of making water available, within the limits of the resource.

807. Beyond the seeking of clarification, the submission is vague and lacks detail, wanting the addition of new provisions without stating what they should be, or in my view, identifying clearly the deficiencies in the existing provisions. Perhaps some examples may have been useful, particularly regarding the lack of a link between allocation limits in Schedule 1 and management flows/levels in Schedule 3. For these reasons, and based on the advice of Mr Wadsworth, no changes to Schedule 1 (or 3) are recommended as a consequence of this submission.

### **All Class C limits**

808. The Yealands Estate Limited submission (1242.043) and the Constellation submission (631.056) both seek that all the C Class allocation limits in Schedule 1 of Appendix 6 are removed because there are no upper limits in the WARMP, and Class C water was set up to encourage users to abstract water during wetter periods for storage and subsequent use during drier periods. That situation has not changed and there appears to be no justification in the MEP for imposing a cap on Class C water takes. The commentary to Policy 5.2.4 refers to Policy B1 of the NPSFM as providing justification for setting environmental flows and levels (including presumably the cap on Class C water takes). That Policy however, concerns itself with setting levels and limits to ensure suitable flows are met. That is achieved through the MEP by setting Class A and B allocation limits. The Class water over and above those allocations is in excess of sustainable limits. There should therefore be no need to set an upper limit for the purposes of managing the sustainability of the resource.

809. The definition of environmental flows and levels in the NPSFM is very clear that it includes minimum flows and levels, and an allocation limit. The submitters are correct that the former is covered by Policy 5.2.4 (Policy and 5.2.11), however appear to not appreciate that the latter is covered by Policy 5.3.3. The Council is required to set allocation limits and to allocate within those limits, and to avoid over-allocation. As a consequence of the NPSFM, it is necessary to now have an upper limit on Class C water to enable the Council to meet its obligations.

810. Val Wadsworth has considered this submission and the following is his advice, based on an understanding that the NPSFM does require limits to be set on all allocations –

- There are a number of risks involved with unlimited allocation, some of which MDC has already experienced.
- Having uncertain allocation and unknown rates of abstraction makes it virtually impossible to ensure downstream minimum flows are met, when monitoring is carried out at an upstream site. For instance, the upstream flow threshold for allowing Class C allocation in the Awatere is 5.6m<sup>3</sup>/s. If the unrestricted abstractions reach or exceed that amount downstream of that monitoring point, then it is fairly obvious to most people that the river will be dried up by those abstractions.
- In actual fact the biggest enemy of any Class C user is another Class C user, as they are competitors for the same resource. Limiting Class C allocations limits this.
- Management of Class C will be impossible under the proposal in the relief sought, and the environment will suffer, therefore Val is of a view that the submissions should not be accepted.

811. On the basis that the Council needs to meet its obligations under the NPSFM, and the advice of Mr Wadsworth, no changes to Schedule 1 are recommended as a consequence of these submissions.

## Awatere FMU

812. The WilkesRM Limited submission (359.039) and the AWUG submission (548.140) both seek that the allocation limit for Awatere FMU Class C water is amended, however they seek different amendments. WilkesRM Limited seeks that the allocation limit is increased from 224,640m<sup>3</sup>/day to 302,400m<sup>3</sup>/day, and the AWUG seeks that the allocation limit is increased from 224,640m<sup>3</sup>/day to 259,200m<sup>3</sup>/day. The submitters are of the view that the Class C limit has been set at an arbitrary level and is already some 62% allocated, and so in the future there will be insufficient Class C water allocation to meet the demand to irrigate land within the Awatere FMU, and notes any abstraction over and above the established allocation limits is a Prohibited Activity as per Rule 2.6.1. AWUG notes future availability is of particular concern given the substantial allocation of Class C water to the proposed Flaxbourne Community Irrigation Limited scheme granted in 2015 for use on land outside the Awatere FMU.

813. Val Wadsworth has considered this submission and the following is his advice –

- The two submitters are concerned that there is insufficient Class C water to meet the future irrigation demand in the Awatere Valley, however at this stage no details have been provided as to the land area yet to be irrigated, it is anticipated this will be received in further evidence.

### Background

- The Awatere River allocation limits were originally set under the WARMP about 20 years ago, at a time when demand was significantly less than it is today. All Class A and B water has been allocated meaning any further developments are now reliant on storing Class C water for summer use, or obtaining short term transfers from other consent holders under the new MEP transfer provisions.

### Current allocation

- As noted in the submissions, about 62% of the Class C allocation has already been made, however it is not known what area of land this is allocated to; some of it will be to provide stored water as backups for properties which also have Class A or Class B consents.
- Evaluating the allocation and usefulness of any Class C water is somewhat difficult. Often Class C users apply for very large takes of water to fill dams, but only a few weeks pumping is required to fill those dams, for the rest of the year the consent is unutilised (of course unutilised Class C could be transferred between users under the new provisions contained in the MEP).
- A further complication with the Awatere River is that the quality of water is often not suitable for irrigation or storage due to high sediment levels at even median flows. Allowing further allocation would allow a higher rate of take at those times when water quality is suitable.
- In theory harvesting Class C Awatere water at the current rate of 224,640m<sup>3</sup>/day between the 5.6m<sup>3</sup>/s cut-off, and the median flow of 11.5m<sup>3</sup>/s should yield about 18,000,000m<sup>3</sup> of water for storage, enough for about 7,000ha of viticulture. Any water which could be harvested above median flows would further increase this. However, the water quality issue described above may limit this volume considerably.

### Flaxbourne Community Irrigation Limited consent

- AWUG highlights the fact that a large portion (about 21%) of the total Awatere Class C is allocated to Flaxbourne Community Irrigation Limited (FCIL) for use outside of the Awatere catchment, and that this restricts users who are actually within the Awatere catchment. Council is not aware of the future of the FCIL consent; however, it obviously is relevant to the consideration of these submissions as to if and when this consent is actually going to be exercised. FCIL has already surrendered a small but important Awatere Class B consent which it held, and is concentrating on investigations and consent applications to take and use water from the Waima River to the south. FCIL also hold consent to take 86,400m<sup>3</sup>/day of Class C3 water from the Flaxbourne River. The Awatere Class C consent was due to lapse on 31 March 2017; however, at that time an application was made by WilkesRM Limited on behalf of FCIL to extend this lapse date to 31 March 2019 while the Waima option is fully assessed. It seems highly unlikely that the FCIL Awatere consent will be exercised, as constructing pipelines into the Flaxbourne district from both north and south would be a very costly exercise and the value and usefulness of the Class C consent was severely diminished when the Class B consent was surrendered.

#### Disadvantages of increasing Class C allocations

- It may seem that any increase in Class C allocations must be beneficial, as it makes more water available for users. However, overly large allocations create potential environmental issues, should all users choose to exercise their consents on the same day, unless rationing is properly managed. This in turn creates management issues, as there is the need to introduce rationing at higher levels if all Class C water is being utilised on any given day. Actually identifying which Class C consents holders are using water on any given day, factoring that into the rationing criteria, and advising of, and ensuring compliance with any rationing limits set, can be a time consuming exercise for Council's compliance team. The bigger the Class C, the harder this job gets.
- The current Class C rationing commencement threshold in Schedule 3 of Appendix 6 is 9.5m<sup>3</sup>/s, which would still be adequate to protect the downstream environment at the 259,200m<sup>3</sup>/day allocation suggested by AWUG. In order to accommodate the 302,400m<sup>3</sup>/day figure suggested by WilkesRM Limited the rationing commencement threshold of 9.5m<sup>3</sup>/s would need to be increased as part of this process.

814. Mr Wadsworth's recommendation, which I agree with, is to increase the Awatere Class C allocation in Schedule 1 of Appendix 6 to 259,200m<sup>3</sup>/day.

815. The Fish and Game submission (509.377) seeks the reduction of the allocation limits for the Awatere FMU to ensure a total allocation of no greater than 30% of MALF. The submitter advises that the Awatere FMU is a braided and flashy waterbody with high sediment loading. It has very limited salmonid fishery values but does have some ecological/biodiversity values such as the existence of blue gilled bullies. The submitter is of the view that the current allocations are far in excess of the recommendations in the PNESEF.

816. This submission has been considered by Peter Hamill and he advises that he does not have any information to show that the current regime is having any impact on those ecological values. Peter has seen from personal observations that there are less bluegill bullies in the Awatere River than there was when he began carrying out fish surveys back in the early 2000's. He does not, however, have any scientific evidence of change or what the drivers for change are. Without a long-term fish monitoring programme in place there is no way to determine if change is actually occurring. If flows are increased there will be more habitats available for the fish but if some other factors, such as discolouration as a result on infiltration gallery maintenance, are causing the decline it will not solve the issue. More money and

research are required to be able to get a better picture of changes in fish populations in Marlborough.

817. This submission has been considered by Val Wadsworth and the following is his advice –

- Firstly, if Fish and Game are seeking to use the provisions of the PNESEF, then this should be 50%, as the mean flow of the Awatere River is about 13.7m<sup>3</sup>/s at the upstream Awapiri recorder, and even higher at the coast.
- The inclusion of a one third flow share within Class B provides additional benefit to the instream environment.
- The instream flow study mentioned in my response to the Fish and Game's Schedule 3 submission noted optimum flows for the Bluegill bullies as being 4.5m<sup>3</sup>/s, with only 3.3% loss of habitat at the minimum flow of 2m<sup>3</sup>/s. With a mean flow over 14m<sup>3</sup>/s, and median flows of about 10m<sup>3</sup>/s, the allowable summer abstraction of 1m<sup>3</sup>/s for Class A, and 2.5m<sup>3</sup>/s for Class B, safeguarded by the minimum flow, it is considered that there is no significant loss of habitat for Bluegill bullies as a result of these abstractions. In fact, it could be argued that abstractions bring the mean and median flow levels down closer to the optimum flow for Bluegill bullies.

818. On the basis of the advice received from Messrs Hamill and Wadsworth, no change to the Schedule 1 with respect to the Awatere FMU is recommended.

### **Flaxbourne FMUs**

819. The Flaxbourne Settlers Association submission (712.035) and the L Taylor submissions (896.001, 896.003 and 896.004 – lodged against Rules 2.1.1, 2.5.1 and 2.5.3) all seek that the Class C allocation limits for the Flaxbourne FMUs (currently totalling 103,510m<sup>3</sup>/day (1.2 m<sup>3</sup>/s) be extended such that additional water be taken during high flows as they are concerned that the proposed regime does not enable a sufficient volume of water to be taken and stored as Class C (including C1, C2 C3) for subsequent irrigation use, including future use, from Flaxbourne River. During high rainfall events there is sufficient water flowing in the River to enable the taking of excess water for storage purposes, and access to this water should not be unduly restricted. The submitters have not advised what specific replacement limits they seek to replace the notified limits.

820. Val Wadsworth has considered this submission and the following is his advice –

- The current Class C allocation is only available for 18 days per year and partially available for another 33 days per year.
- Val is of a view that the submitters have not considered the practicalities of capturing a flow of 1.2m<sup>3</sup>/s, which is a significant exercise. The only way to pump such a volume to storage would be a bank of low head, high discharge flood pumps, or by a physical diversion of flood flows from the river. The 3 million cubic metre storage dam would need to be situated close to the river, both in distance and elevation in order to minimise pumping losses. Val's knowledge of work by the Flaxbourne Irrigation Group has shown that, while there are a few storage options of this size, they are all located in valleys well away from the main river. A dammed quantity of 3 million cubic metres would probably irrigate about 1300ha of grapes. I understand that the current landowner commitment to the Flaxbourne Irrigation Scheme is less than this.
- Increasing the allocation to say 2m<sup>3</sup>/s will reduce the number of days which the allocation is fully available to about 3 days per year, and partial availability will increase to 42 days. The actual amount of water able to be captured would be about 4.1 million cubic metres. Management of a take of this size could only happen through a co-ordinated community body. The Flaxbourne Irrigation Group consultants have already

considered the Flaxbourne River as a source, and chosen to look elsewhere, which tells me that this option is not viable.

- It is considered that the current allocation is more than adequate, given that it is already only available for a very short time. Furthermore, there are submissions from some parties against some allocation regimes in the Plan for not being “sufficiently reliable”; the current allocation regime for the Flaxbourne would sit at the top of this list, even without any increase.

821. On the basis of the advice received from Mr Wadsworth, no change to the Class C allocation limits for the Flaxbourne FMUs are recommended.

### **Kaituna FMU**

822. The Fish and Game submission (509.378) seeks removal of the Class B allocation for the Kaituna FMU, and reduce the Class A by a volume equal to the short-term allocations under the MSRMP, which have been integrated into the Class A in the MEP, to reduce the Class A allocation to no greater than 20% of MALF. The submitter is of the view that the existing consented allocation is already exceeding 20% of MALF for the Kaituna, meaning that there is a high degree of hydrological alteration already occurring in the waterway, and in-stream modelling is required before any further allocation is contemplated for this catchment. Fish and Game oppose the approach proposed in the Plan to amalgamate ‘temporary’ controlled activity short-term irrigation consents (under the MSRMP) into permanent Class A allocation.

823. Val Wadsworth has considered this submission and the following is his advice –

- Fish and Game have submitted extensively seeking changes to limits and allocations, wanting these to be mathematically based on percentages of the MALF7, as proposed in the PNESPF. They particularly oppose the increase in allocation to include a Class B allocation, and the increased size of allocations in the Kaituna FMU.
- The original limits were set during the preparation of the MSRMP in 2000, and included input from Fish and Game. This included a rather unusual class of allocation, short-term consents, to allow quick allocation of water in drier years, without undue paperwork, a situation which was highlighted by Neil Deans of DOC, and Fish and Game. Immediately following the setting of these limits, the impact of the 2001 drought, and the rise of the dairy industry led to the short-term consents becoming fully utilised every year.
- Fish and Game are seeking formula based limits and allocations, based on the PNESPF, as they are in many rivers. While Val does not necessarily agree with this method, he will show the effects of applying it to these rivers.
- Firstly, it is necessary to derive MALF7 for the various rivers. Fish and Game are highlighting that naturalised flow values should be used, i.e. those which have had any bias resulting from abstractions removed. Val will comment on that whole issue separately, all that he will say here is that naturalisation is not well defined, and is open to interpretation, with other factors such as climate variability, climate change, and land use effects such as forestry also having a significant effect on flows over time.
- The Kaituna allocation and minimum flows set in 2000 were done using minimal local data which was co-related with the Rai River to derive values, and as such is recognised as having some uncertainty. The allocation was set at  $0.051\text{m}^3/\text{s}$  ( $4,406\text{m}^3/\text{day}$ ) each of long-term and short-term allocation, totalling  $8,812\text{m}^3/\text{day}$ . The minimum flow was set at  $0.280\text{m}^3/\text{s}$ . In addition, the allocation has also been managed to factor in available flow up the catchment; the further up the catchment, the less allocation can be made. So, for instance halfway up the catchment only half the

allocation was made available. This situation is unique to the Kaituna, in recognition of the fact that unlike most other catchments the irrigable land extends right to the top end of the catchment where the water resource is very small.

- The MEP proposed retaining the minimum flow at a similar level of  $0.275\text{m}^3/\text{s}$ , and increasing the allocation to  $17,280\text{m}^3/\text{day}$  (plus a Municipal supply allocation of  $2,000\text{m}^3/\text{day}$  from a source at the bottom of the catchment below the recording site). This allocation includes a Class B, which has a higher cut-off threshold of  $0.400\text{m}^3/\text{s}$ . Because monitoring is downstream of the take zone, this effectively leaves a secondary environmental flow buffer between the two classes.
- There are now 11 years of complete record from which to derive flow statistics, still marginal for robust statistical analysis, but better than previous figures. In 2018 Marianne Watson of Hydronet Limited was engaged by Fish and Game to assess flow values for various catchments, Ms Watson has derived a non-naturalised MALF7 of  $0.384\text{m}^3/\text{s}$ , and used various methods to derive a naturalised figure of  $0.475\text{m}^3/\text{s}$ , which Val uses for the purpose of this example.
- Applying the PNESPF provisions to the Watson figure would result in an environmental flow of  $0.380\text{m}^3/\text{s}$ , and an allocation of  $12,312\text{m}^3/\text{day}$ . However, given that minimum flows do not seem to have been submitted on in this case, a change to minimum flows may be out of scope. Fish and Game have also misquoted the PNESPF, stating 20% allocation instead of 30%.
- For the record, since the notification of the proposed MEP, Fish and Game have been actively submitting on consents in the Kaituna catchment, and requesting applicants to accept a minimum flow threshold of  $0.370\text{m}^3/\text{s}$ , higher than those contained in the MEP, failing which they will actively oppose the application. Some applicants have accepted this higher threshold, in order to gain consent without having to go to hearing and appeal. This is counterproductive for Council staff, and has resulted in this catchment having additional minimum flow thresholds which Council will now have to monitor and enforce.

824. Val has made no recommendation on the basis that he considers the allocation limits to be appropriate, if the minimum flows are sufficient to maintain natural and human use values, which Peter Hamill is best placed to advise.

825. Peter Hamill has considered this submission and the following is his advice and notes that the values for the Kaituna FMU are predominantly native fish species and habitats, and the submission does not explain the recreational fishing values they are concerned about protecting. The existing regime (which includes short-term) is sustainable. Possibly the Class B could be removed from the regime as more water in a river is always better, however as Class B has a higher threshold it is probably acceptable to stay.

826. On the basis of the advice received from Messrs Hamill and Wadsworth, no change to the Schedule 1 with respect to the Kaituna FMU is recommended at this time.

### **Lower Pelorus FMU**

827. The Fish and Game submission (509.380) seeks removal of the additional Class B allocation for the Lower Pelorus FMU, the reduction of the Class A by a volume equal to the short-term allocations under the MSRMP, which have been integrated into the Class A in the MEP, to reduce the Class A allocation to no greater than 20% of MALF, and notes that MALF data is required for this FMU. The submitter is of the view that the proposed allocation volume for the Lower Pelorus FMU is unacceptable given this is well over the 20% of MALF as suggested in the PNESEF. It is also unacceptable to Fish and Game that temporary (emergency) water permits are integrated into the allocation, unless the Class A cut off is



increased. Further, there is no ecological justification for an additional Class B allocation from this waterway and Fish and Game are of the view that the existing Class A & B water allocation are appropriate for this FMU.

828. Val Wadsworth has considered these submissions and the following is his advice –

- Fish and Game have submitted extensively seeking changes to limits and allocations, wanting these to be mathematically based on percentages of the MALF7, as proposed in the PNESEF. They particularly oppose the increase in allocation to include a Class B allocation, and the increased size of allocations in the Pelorus FMU.
- The original limits were set during the preparation of the MSRMP in 2000, and included input from Fish and Game. This included a rather unusual class of allocation, short term consents, to allow quick allocation of water in drier years, without undue paperwork, a situation which was highlighted by Neil Deans of DOC, and Fish and Game. Immediately following the setting of these limits, the impact of the 2001 drought, and the rise of the dairy industry has led to the short-term consents becoming fully utilised every year.
- Fish and Game are seeking formula based limits and allocations, based on the PNESEF, as they are in many rivers. While Val does not necessarily agree with this method, he will show the effects of applying it to these rivers.
- Firstly, it is necessary to derive MALF7 for the various rivers. Fish and Game are highlighting that naturalised flow values should be used, i.e. those which have had any bias resulting from abstractions removed. Val will comment on that whole issue separately, all that he will say here is that naturalisation is not well defined, and is open to interpretation, with other factors such as climate variability, climate change, and land use effects such as forestry also having a significant effect on flows over time.
- The Pelorus catchment comprises approximately 890km<sup>2</sup>, there are two flow monitoring sites on the Upper Pelorus at Bryants (375km<sup>2</sup>) and Rai at Rai Falls (212km<sup>2</sup>). Together these two sites monitor 66% of the total catchment area. In a paper prepared in 2012, Val assessed the non-naturalised MALF7 values as being 2.12m<sup>3</sup>/s, and 1.24m<sup>3</sup>/s respectively. Fish and Game engaged Marianne Watson of Hydronet to assess flow values for the catchments, she carried out extensive work, and derived figures of 2.1m<sup>3</sup>/s, and 1.29m<sup>3</sup>/s (+/- 2%) respectively. These figures are very close to Val's 2012 figures, so to save any conflict over such a minor difference Val will use the Watson figures for this exercise.
- The Lower Pelorus FMU includes the Wakamarina as a major tributary, and also has the benefit of all water derived from the Upper Pelorus, from which no allocation is available. As such the Lower Pelorus is a sizable water resource from which significant allocation should be possible. Fish and Game have wrongly ignored these tributaries in their assessment. They have also wrongly quoted a PNESEF value of 20% for available allocation however for a river with a mean flow greater than 5m<sup>3</sup>/s this should be 50% as per the PNESEF. Watson has derived a MALF7 figure for Pelorus at Totara Flat of 3.37m<sup>3</sup>/s, but has not extended this to derive a figure for the total Pelorus catchment, which would be necessary to derive a total catchment allocation under the PNESEF. In the preparation of the limits for the MEP Val calculated that the increase in area down to Fishermans Flat would result in a MALF7 at this point of 4.2m<sup>3</sup>/s, and from this figure derived the management flow of 3.75m<sup>3</sup>/s specified in the MEP. Using the PNESEF as a basis, an allocation of 181,440m<sup>3</sup>/day could be made from a flow of 4.2m<sup>3</sup>/s. Deducting the total Rai allocation brings this down to 125,712m<sup>3</sup>/day, compared with the MEP allocation total across Class A and B of 90,000m<sup>3</sup>/day. The

cut-off flow would need to be increased to allow this level of allocation, and still maintain the minimum flow specified for the Pelorus at Fishermans Flat.

- As the figures derived by using the PNESEF are actually higher than those proposed in the MEP, Val recommends that the figures for allocation and cut-off as set out in the MEP are retained.

829. On the basis of Mr Wadsworth's advice, no amendments to the Lower Pelorus FMU quantity allocations in Schedule 1 of Appendix 6 are recommended as a consequence of this submission.

### **Rai, Opouri, Tunakino and Ronga FMUs**

830. The Fish and Game submission (509.379) seeks removal of the Class B allocation for the Opouri FMU and replace the flows with a minimum flow of 80% of MALF, and notes that MALF data is required for this FMU. The submitter advises that the Opouri FMU is a valued brown and rainbow trout fishery. And states, there is no data on the MALF for this FMU and as such, it opposes the new Class B allocation proposed in the Plan. The adequacy of the present SFR of 1m<sup>3</sup>/s at Rai Falls is also questionable for the Opouri – a higher SFR may be required for this FMU.

831. The Fish and Game submissions (509.382 and 509.383) seek the removal of the Class B allocations for the Ronga and Tunakino FMUs. The submitter states that there is no data on the MALF for these FMUs and as such, it opposes the new Class B allocations proposed in the Plan.

832. The Fish and Game submission (509.381) seeks reduction of the Class A allocation by a volume equal to the short-term allocations under the MSRMP, which have been integrated into the Class A in the MEP, and reduce the Class A allocation to less than 30% of MALF to be in alignment with the PNESEF. The submitter is of the view that the total proposed allocation volume for the Rai FMU is totally unacceptable given it is close to 100% of MALF, and it should be reduced to less than 30% of MALF to align with the PNESEF. Fish and Game oppose the approach proposed in the Plan to amalgamate 'temporary' controlled activity short-term irrigation consents (under the MSRMP) into permanent Class A allocation.

833. The Environment Centre submission (1193.130) also opposes the approach proposed in the Plan to amalgamate 'temporary' controlled activity short-term irrigation consents (under the MSRMP) into permanent Class A allocation, and is the view that allocations should be in line with recommendations in the PNESEF. The submitter is concerned that the Plan was notified with large increases in the water allocation in catchments such as the Rai, with no knowledge of what the MALF actually is, and no science based instream assessment of the likely impact of this additional allocation.

834. Val Wadsworth has considered these submissions and the following is his advice –

- Fish and Game have submitted extensively seeking changes to limits and allocations, wanting these to be mathematically based on percentages of the MALF7, as proposed in the PNESEF. They particularly oppose the increase in allocation to include a Class B allocation, and the increased size of allocations in the Rai FMU.
- Marlborough Environment Centre has made a similar, but less specific submission.
- The original limits were set during the preparation of the MSRMP in 2000, and included input from Fish and Game. This included a rather unusual class of allocation, short term consents, to allow quick allocation of water in drier years, without undue paperwork, a situation which was highlighted by Neil Deans of DOC, and Fish and Game. Immediately following the setting of these limits, the impact of the 2001 drought,

and the rise of the dairy industry has led to the short-term consents becoming fully utilised every year.

- Fish and Game are seeking formula based limits and allocations, based on the PNESEF, as they are in many rivers. While Val does not necessarily agree with this method, he will show the effects of applying it to these rivers.
- Firstly, it is necessary to derive MALF7 for the various rivers. Fish and Game are highlighting that naturalised flow values should be used, i.e. those which have had any bias resulting from abstractions removed. Val will comment on that whole issue separately, all that he will say here is that naturalisation is not well defined, and is open to interpretation, with other factors such as climate variability, climate change, and land use effects such as forestry also having a significant effect on flows over time.
- The Pelorus catchment comprises approximately 890km<sup>2</sup>, there are two flow monitoring sites on the Upper Pelorus at Bryants (375km<sup>2</sup>) and Rai at Rai Falls (212km<sup>2</sup>). Together these two sites monitor 66% of the total catchment area. In a paper prepared in 2012, Val assessed the non-naturalised MALF7 values as being 2.12m<sup>3</sup>/s, and 1.24m<sup>3</sup>/s respectively. Fish and Game engaged Marianne Watson of Hydronet to assess flow values for the catchments, she carried out extensive work, and derived figures of 2.1m<sup>3</sup>/s, and 1.29m<sup>3</sup>/s (+/- 2%) respectively. These figures are very close to Val's 2012 figures, so to save any conflict over such a minor difference Val will use the Watson figures for this exercise.
- Watson also derived MALF7 figures for the Ronga, Tunakino, Opouri sub catchments of the Rai River, and Val has also adopted those figures.

#### Rai tributaries

- The Rai catchment comprises three main upstream sub-catchments, plus the main lower Rai River, the headwaters of which are known as the Brown River.
- Fish and Game submit that the allocation limits for each of the three main tributaries are too large, and should be based on the MALF7 as proposed in the PNESEF. Below is a schedule of these catchments, current allocations, and allocations should the Fish and Game model be adopted. These allocations are based on 30% of MALF as per the PNESEF, which is what Fish and Game are generally seeking.

| FMU      | MALF7                   | MEP allocation             | PNESEF based allocation    | MSRMP long term allocation | MSRMP short term allocation |
|----------|-------------------------|----------------------------|----------------------------|----------------------------|-----------------------------|
| Ronga    | 0.208 m <sup>3</sup> /s | 13,305 m <sup>3</sup> /day | 5,391 m <sup>3</sup> /day  | 2,333 m <sup>3</sup> /day  | 2,333 m <sup>3</sup> /day   |
| Tunakino | 0.210 m <sup>3</sup> /s | 13,392 m <sup>3</sup> /day | 5,443 m <sup>3</sup> /day  | 2,419 m <sup>3</sup> /day  | 2,419 m <sup>3</sup> /day   |
| Opouri   | 0.450 m <sup>3</sup> /s | 27,475 m <sup>3</sup> /day | 11,664 m <sup>3</sup> /day | 5,098 m <sup>3</sup> /day  | 5,098 m <sup>3</sup> /day   |

- It can be seen that the totals of the previous MSRMP long- and short-term allocations is actually slightly less than the PNESEF based allocation, and that the MEP proposal was a significant increase over these figures. This increase was to be offset by a higher cut-off threshold for the new Class B allocation.
- Turning then to PNESEF based cut-off figures for these sub-catchments, the MEP figures are 1.000m<sup>3</sup>/s based on the Rai recorder for Class A, and 1.25m<sup>3</sup>/s for class B. Following the general Fish and Game principle of 80% of MALF for a river with a mean flow less than 5m<sup>3</sup>/s the shutoff would become 1.17m<sup>3</sup>/s for these sub catchments.

- Adopting PNESEF based figures for these catchments limits the opportunity provided by the MEP for additional irrigated area, but provides more benefits to the environment. Val would suggest that should this option be chosen that the total allocation should be made as one class, with one single cut-off, to provide equity between users.
- As a general comment Val notes that minimum flows do not seem to have been submitted on in all cases, so changes may be out of scope.

#### Rai catchment

- For the balance of the Rai River the lower reaches have a mean flow greater than 5m<sup>3</sup>/s. Therefore, to correctly follow the provisions of the PNESEF, the values used should be those for larger rivers, namely an allocation of 50% of MALF7, and minimum flow of 90% of MALF7. This differs from the Fish and Game submission which uses the recommendations for small rivers, but should they wish to consistently follow the PNESEF guidelines, then Val believes that this is the correct interpretation. This results in a total catchment allocation of 1.29m<sup>3</sup>/s (55,728m<sup>3</sup>/day), from which the upstream allocations need to be subtracted, bringing it down to 33,230m<sup>3</sup>/day. The cut-off figure would need to increase from 1.00m<sup>3</sup>/s to 1.04m<sup>3</sup>/s. Fish and Game have opposed the addition of a Class B, so this suggests that they would prefer a single class, which would be calculated as above. However, moving to a single class would remove the environmental buffer between classes which the MEP has built in through the two different cut-off thresholds.

835. Val has made no recommendation on the basis that he considers the allocation limits to be appropriate, if the minimum flows are sufficient to maintain natural and human use values, which Peter Hamill is best placed to advise.
836. Val is of the view that, if the Fish and Game submission to use the PNESEF provisions are to be adopted, then they should be adopted consistently as set out in his examples.
837. On the basis of the content of the submission, and the advice received from Messrs Wadsworth and Hamill, no changes are made as a consequence of these submissions.

#### **Tuamarina FMU**

838. The Fish and Game submission (509.384) seeks the removal of the allocation for the Tuamarina FMU until more information on in-stream flows and MALF are available to enable accurate management. The submitter advises that the Tuamarina FMU is a locally important trout fishery and also feeds the hydrology of Marlborough's most significant lowland wetland, Para Wetland. Further, no MALF has been calculated for this FMU so, as a result of this, and the lack of adequate in-stream flow assessment, there is no case for any further water allocation in the Tuamarina FMU.
839. This submission has been considered by Val Wadsworth and the following is his advice –
- The new class system is mainly a reworking of existing consents into hierarchical classes as below. Val does not agree that an extensive flow assessment is necessary to assess the proposed allocation. Firstly, there is an ongoing assumption by Fish and Game that MALF totally informs and dictates available habitat. Secondly, the Tuamarina River has a substantial underflow through the river gravels, which mean there is a substantial buffer provided by the aquifer. If Fish and Game are concerned about another 11L/s, then Class B2 could be reduced to 4234m<sup>3</sup>/d to allow only the existing consents.
    - Class A comprises one existing consent, 45L/s, 3888m<sup>3</sup>/d
    - Class B1 comprises two existing consents 58L/s, 5011m<sup>3</sup>/d (slight variation here)

- Class B2 comprises three existing consents totalling 49L/s, 4234m<sup>3</sup>/d, with only 950m<sup>3</sup>/d unallocated (11L/s).

840. This submission has been considered by Peter Hamill and the following is his advice –

- Peter agrees with the Fish and Game that the Tuamarina River is a critically important factor in the hydrological regime of the Para Wetland. It is my understanding that there has not been any detailed work in terms of water level/flow analysis to determine what level/flow in the Tuamarina River is required to sustain the wetland. I therefore agree with the submission that no new allocation should be granted until this work can be carried out.

841. On the basis of the content of the submission, and the advice received from Messrs Wadsworth and Hamill, it is recommended that the Class B2 allocation limit is reduced to 4234m<sup>3</sup>/d to reflect the existing allocation but provide for no increase in allocation. There is one further submission in opposition to this submission from Pernod Ricard, however it is generic in nature, essentially a placeholder. The Fish and Game submission has been recorded in Appendix 1 as accepted in part. The specific details are in the Recommended section below.

### Waihopai FMU

842. The Fish and Game submission (509.385) seeks the amendment of the allocation volumes for the Waihopai FMU to align them with the PNESEF and to reduce it to less than 30% of MALF. The submitter advises that the Waihopai FMU is a locally important trout fishery. In the submitter's view, the current allocation for this catchment is far in excess of what the PNESEF recommends. Fish and Game also note that the diversion from the Wairau River FMU does complicate the allocations and flows for this FMU. The submitter supports the Wairau River FMU minimum flow at Barnett's Bank (subject to its submissions seeking changes to that limit) also applying to the Waihopai FMU.

843. Val Wadsworth has considered this submission and the following is his advice –

- Again, if it is the PNESEF then the allocation quoted should be 50% of MALF7 because mean flow is >5m<sup>3</sup>/s. Using this 50% of MALF7 (2.7m<sup>3</sup>/s) is 1.35m<sup>3</sup>/s. Combined Class A and B allocation is 0.4+1.13m<sup>3</sup>/s = 1.53m<sup>3</sup>/s, which is not too far (13%) different, hardly far in excess. Val does not really consider Class C takes as a significant part of flow depleting allocation, as they are much more spasmodic.
- Again, one third flow share in Class B (0.56m<sup>3</sup>/s) will help the environment as well, as well as the allowance for a worst case scenario losses to groundwater built into the presumed flow regime for the lower reaches of river.
- As a general comment across all these Fish and Game Schedule 1 submissions on overallocation, is that the submitter does not acknowledge or recognise the mitigation provided by the one third environmental flow allocation within the Class B allocation, and also the benefits provided by the use of the monthly Irricalc limits which mean allocation cannot readily be fully exercised in all months. There are complexities within our allocation regime which they have never tried to understand.

844. Based on the advice of Mr Wadsworth, I have not recommended any changes as a result of this submission, however I have recorded it as accepted in part given the submitters support for the Wairau River FMU management flow applying to the Waihopai FMU also.

845. The Trustpower Limited submission (1201.160) seeks an amendment to the footnotes for Schedule 1 to add the following – ***“The existing consented take and use of water for hydro-electric power generation within the Waihopai River is considered a non-consumptive take, and is therefore outside of this allocation framework”***. The submitter

states that, while it does not oppose the allocation volumes set for the Waihopai River FMU, there is concern on how the existing consented take and use of water for hydro-electric generation is considered in light of the allocation volume. While the relevant resource consents acknowledge that this take is non-consumptive, Trustpower considers that this needs to be provided for in this allocation framework.

846. While the content of the footnote is accurate with regards to Trustpower's Waihopai scheme, I am not particularly comfortable with adding footnotes such as this, if we did then would we not have to go through all permits granted for each FMU and ascertain the ones in similar circumstances and include them in a footnote? In this specific circumstance, it seems particularly unnecessary as the life of the MEP is likely to be half the remaining term of Trustpower Limited's resource consent, which does not expire until 2039.

### **Wairau River FMU (downstream of the Hamilton River confluence)**

847. The S and S White submission (93.016) seeks that the Class B allocation under the WARMP becomes the new Class A allocation in the MEP, as well as the unclassified consents that have the restrictions of the new Class A. I confirm that this is the case, so the relief sought is already provided for in the MEP.

848. The Fish and Game submission (509.386) seeks that the allocation for the Wairau River FMU be amended to reflect the existing rule in the WARMP, or either of the options identified for the FMU in the Council commissioned Cawthron Report<sup>52</sup>, to reduce it to less than 50% of mean annual low flow (MALF) or where studies indicate a higher or lower percentage allocation (than that proposed in the PNESEF) is necessary to preserve values, this should instead be adopted. The submitter states that the Wairau River is a nationally significant fishery. The submitter is of the view that, prior to any further allocation from the Wairau River FMU, the Council should either:

- implement the present flow-sharing rule in the WARMP; or
- retain the 15m<sup>3</sup>/s allocation of Class B water in the WARMP, but with a block by block flow sharing arrangement above the minimum flow to full allocation using a more equitable 1:1 flow sharing ratio which would see Class B abstraction implemented at around 40m<sup>3</sup>/s; or
- reduce the Class B allocation to 50% of MALF from the Wairau River which would substantially reduce the future impact of abstraction on mid to low range flows.

849. Val Wadsworth has considered this submission and the following is his advice –

#### Discussion

- The original allocation for the Wairau River was set during the preparation of the WARMP in in about 1996, and included consultation with Fish and Game.
- An innovative multi class allocation framework was proposed, with a total Class B allocation of 15m<sup>3</sup>/s (1,296,000m<sup>3</sup>/day), and an open ended Class C allocation, which had a higher cut-off threshold. No Class A allocation was made, instead the natural losses to the Wairau Aquifer in the Renwick-Rapaura reach were treated as the Class A allocation.
- At the time of reviewing the WARMP, and drafting the MEP, about half of the Class B had been allocated. It was considered at that time that Class B was too large and unwieldy, and could adversely impact on the river environment by “flat lining” the river

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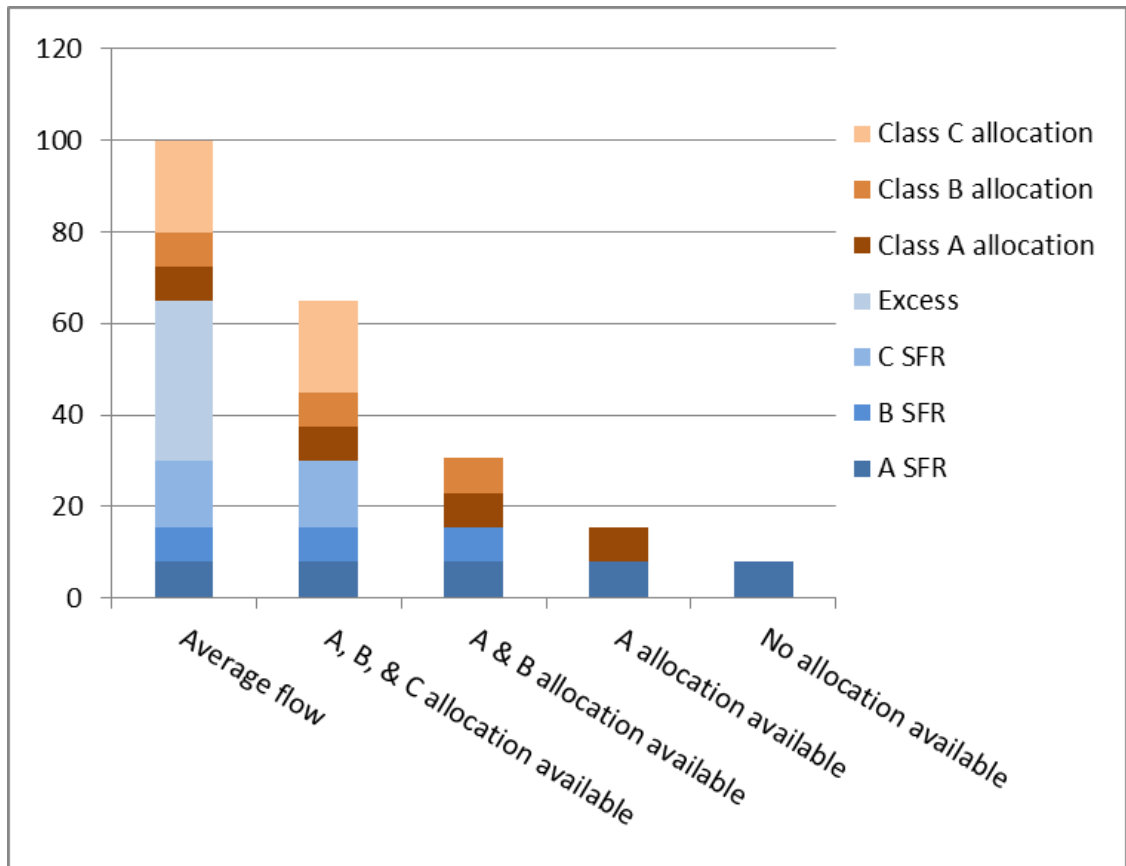
<sup>52</sup> Hay, J. and Hayes, J.N.E (2014). Review of the Wairau River Sustainable Flow Regime. Prepared for Marlborough District Council. Cawthron Report No. 2505

flows at the minimum flow of 8m<sup>3</sup>/s for long periods of time (if and when it was fully allocated), so the decision was made to split the WARMP Class B into two as follows;

- The allocated Class B consents would be renamed as Class A, and retain the cut-offs with which they were issued. Total allocation to be 7.5m<sup>3</sup>/s (650,000m<sup>3</sup>/day).
  - The unallocated balance would be named Class B, but would have a higher cut-off limit of 15m<sup>3</sup>/s, to give some flow variability, and prevent the river flat lining. Total allocation to be 7.5m<sup>3</sup>/s (650,000m<sup>3</sup>/day).
- As the NPSFM now requires Council to specify allocation limits, which cannot be exceeded, an upper limit of 20m<sup>3</sup>/s (1,728,000m<sup>3</sup>/day) was allocated to Class C.
  - These numbers are quite large, reflecting the size of the Wairau River. Protection is provided by the staggered cut-off levels, and the fact that monitoring is downstream of the takes. This is a matter which Val feels that neither the original Cawthron Report, nor Fish and Game have not been able to properly appreciate, and this discussed later in these comments, as well as in the comments on Wairau River FMU minimum flows provided elsewhere in this s42a report.
  - The Fish and Game submission seeks that total allocation should be no more than 50% of the 7 day Mean Annual Low Flow (MALF7), or that block by block flow sharing at a 1:1 ratio be implemented.
  - The MALF7 figure for the Wairau is about 14m<sup>3</sup>/s, the exact naturalised value is yet to be calculated, should it be required following the outcome of this hearing process, and after discussions about exactly what period should be used for naturalised flow.
  - Obviously, the current Class A allocation slightly exceeds the 50% total allocation sought by Fish and Game, and this option is one which would have impacts on existing and possible future consent holders.
  - However, Val considers that the notified MEP provisions are already a 1:1 flow share arrangement, and do meet the criteria requested by Fish and Game. As stated earlier, there has been a lack of mathematical understanding by Fish and Game on the difference between upstream and downstream monitoring, and the effects of that on cut-off levels and allocations which Val attempts to explain here. The following table sets out the logical progression of downstream flow requirements, compared with the upstream flows needed to meet those requirements. It should be read down each column sequentially.

|  | <b>Class A</b>         | <b>Class B</b>                | <b>Class C</b>                       |
|--|------------------------|-------------------------------|--------------------------------------|
| Minimum flow required at downstream monitoring point       | 8.0 m <sup>3</sup> /s  | 15.0 m <sup>3</sup> /s        | 30.0 m <sup>3</sup> /s               |
| Allocation upstream of monitoring point                    | 7.5 m <sup>3</sup> /s  | 7.5 (+ 7.5) m <sup>3</sup> /s | 20.0 (+ 7.5 + 7.5) m <sup>3</sup> /s |
| Flow required upstream for full allocation to be exercised | 15.5 m <sup>3</sup> /s | 30.0 m <sup>3</sup> /s        | 65.0 m <sup>3</sup> /s               |
| Instream share remaining at downstream monitoring point    | 8.0 m <sup>3</sup> /s  | 15.0 m <sup>3</sup> /s        | 30.0 m <sup>3</sup> /s               |

- This is represented diagrammatically below.



- The values in the left axis are upstream flows; the various blue Sustainable Flow Regime (SFR) classes are what will be left at the downstream monitoring point for various flow situations.
- Hopefully this clearly shows that the instream share as proposed under the MEP is already 1:1, or very close to it, and comprises three blocks, therefore meeting the requirements of the Fish and Game submission.
- Two other environmental mitigations relating to takes from the Wairau River should also be highlighted;
  - Allocations are seldom fully exercised, so for much of the irrigation season the balance left in the river will be higher, and flow variability will be more natural. In particular Class C, which is used for filling the many storage dams in the area, does not operate 24/7, once storage dams are full this Class is largely not used.
  - Many of the takes classed as Wairau River surface water are actually abstracted from galleries at some distance from the river, in some cases up to 500 metres. This means that there is a groundwater component to many takes, which buffers the full effect of the takes on the surface flow. In many cases the actual stream depletion effect is only 50%-70%, sometimes even lower. Over the years MDC has had considerable pressure in the Wairau Valley area to not treat these takes as Wairau River surface water takes. MDC has consistently resisted this pressure, preferring to manage the two resources as one. It has been noticeable on the occasions when the previous Wairau Class B takes were cut off, that there was no “bounce back” of river flows as would be expected when large numbers of surface water takes are switched off at once.



- For the record, since the notification of the proposed MEP, Fish and Game have been actively submitting on consents in the Wairau catchment, and requesting applicants to accept a Class B minimum flow threshold of 27.4m<sup>3</sup>/s (much higher than that contained in the MEP), failing which they will actively oppose the application. Some applicants have accepted this higher threshold, in order to gain consent without having to go to hearing and potentially appeal. This is contrary to the MEP, and counterproductive for Council staff, and has resulted in this catchment having additional minimum flow thresholds which Council will now have to monitor and enforce. It also seriously disadvantages those parties accepting such consents.

#### Recommended

- That no change be made to allocations, as they generally meet the block by block flow sharing criteria specified by the Cawthron report, and Fish and Game.
- Alternatively, if F&G insist on exact 1:1 flow sharing, reduce Class C allocation to 15m<sup>3</sup>/s. However, this change may be out of scope, as the Fish and Game submission does not specifically refer to Class C allocation.

850. On the basis of the advice received from Mr Wadsworth, no change to the allocation limits for the Wairau River FMU is recommended.

#### **Rarangi Shallow FMU**

851. The T Lasham submission (357.003) seeks the reduction of the allocation limit for the Rarangi Shallow FMU to minimize the risk of seawater intrusion.

852. Peter Davidson has considered this submission and advises that the existing allocation limit for this FMU reflects consented use and appears sustainable based on long-term MDC state of the environment monitoring network results.

853. On the basis of Mr Davidson's advice, and with the conductivity levels also applying to this FMU, no amendments to the Rarangi Shallow FMU quantity allocations in Schedule 1 of Appendix 6 are recommended as a consequence of this submission.

#### **Wairau Aquifer FMU**

854. The Fish and Game submission (509.387) seeks the possibility for future allocation from the Wairau Aquifer FMU is removed from the MEP through the freeing up of unused existing allocations by reducing the allocation limit to the total of what is actually used on existing consents rather than what is allocated. The submitter is opposed to the significant change to future allocation proposed to make more water available from the Wairau Aquifer through the review of present water permits and reducing them to a volume based on 'actual and reasonable use' essentially freeing up some of the unused allocation for future allocation. The likely net effect of this may lead to lower flows within the FMU for longer periods of time as permits for more actual water use are granted into the future resulting in further adverse effects on the salmonid fishery.

855. Peter Davidson has also considered this submission and the following is his advice –

- MDC have reviewed the allocation limit for the Wairau Aquifer FMU and this is reflected in the lower value in the MEP.
- MDC are in the process of developing a regional scale model of the water resources of the whole Wairau Plain and not just the Wairau Aquifer. This tool will be used to check the MEP allocation limit and the results will be externally peer reviewed.

- MDC hydrological staff are confident that the combination of the reduced allocation limit in conjunction with the introduction of environmental thresholds in the MEP will manage the seasonal effects of consented abstraction and maintain groundwater fed spring flows.
- The submission is correct in saying that existing levels of abstraction are acceptable with perhaps the exception of drought conditions when high demand and lower than normal recharge have the potential to affect spring flow.
- Quantifying actual use is a priority for MDC to define “cause and effect” for the Wairau Aquifer.

856. The submitter has misunderstood or overlooked all of relevant provisions of the MEP relating to the Wairau Aquifer FMU. It is identified in Policy 5.5.1 as an over-allocated resource, and under Policy 5.5.2 there will be no new allocations granted from this FMU post the notification of the MEP (reinforced by Prohibited Activity Rule 2.6.1). Policy 5.5.4 then identifies that the reduction in individual allocations as a result of applying the reasonable use provisions in the MEP will be used to resolve the over-allocation in this FMU, i.e. it will not become available for re-allocation as indicated in the submission. For these reasons, and taking into account the advice of Mr Davidson, no changes are recommended to the Wairau Aquifer FMU as a result of this submission.

#### **Wairau Aquifer/Omaka River FMUs**

857. The NZDF submission (992.098) states that it understands from discussions with MDC that the water volumes have been rearranged between the Wairau Aquifer FMU and the Omaka River FMU, and the allocation limits have not been adjusted to reflect this correctly. Having correct and reliable information in relation to these matters is crucial for all water users and the submitter seeks the amendment of these allocations to ensure the information is correct.

858. Peter Davidson has considered this submission and the following is his advice –

- MDC hydrologists Peter Davidson and Val Wadsworth reviewed the boundary of the Omaka River FMU and are satisfied that the MEP version reflected the latest hydrological information regarding water flow direction and boundaries.
- The Omaka River FMU still has Class C class water available. However, it is fair to say that the Class A water may be overcommitted based on its reliability compared to other FMU’s such as the Wairau River.
- The Omaka River FMU limits were defined by MDC 25 years ago based on limited flow record.

859. Based on the advice received from Mr Davidson, no changes are recommended to the Schedule 1 for these FMUs.

#### **Various FMUs**

860. The Council lodged several submissions seeking corrections to Schedule 1, no specific opposition of relevance was received in relation to these submissions, therefore it is recommended that they are accepted. The submissions points are 91.085, 91.086, 91.103, 91.141, 91.142, 91.250, 91.251, 91.261, 91.312 and 91.313. The details of the changes are in the Recommendation section below.

#### **Recommendation**

861. It is recommended that Schedule 1 of Appendix is retained, except where amended below or elsewhere in this report.

862. The Tuamarina FMU Class B2 allocation (third column) in the table in Schedule 1 should be amended to read as follows –

~~“5,184~~ **4,234”**.

863. The Awatere FMU Class C allocation (third column) in the table in Schedule 1 should be amended to read as follows –

~~“224,640~~ **259,200”**.

864. The Waihopai FMU Class C allocation (third column) in the table in Schedule 1 should be amended to read as follows –

~~“241,920~~ **271,000”**.

865. The Are Are FMU Class A allocation (third column) in the table in Schedule 1 should be amended to read as follows –

~~“43,200~~ **4,320”**.

866. The Wairau River FMU description (first column) in the table in Schedule 1 should be amended to read as follows –

*“Wairau River upstream of the Hamilton River confluence, **and including the Hamilton River**”*.

867. The Riverlands FMU row in the table in Schedule 1 should be amended to read as follows (retain text about exclusions) –

|                    |                         |            |  |
|--------------------|-------------------------|------------|--|
| <b>“Riverlands</b> | <b>Municipal Supply</b> | <b>n/a</b> | <b>2,079,900</b>                         |
|                    | <i>n/a</i>              | <i>n/a</i> | <del>4,234,000</del> <b>2,154,100”</b> . |

868. The Wairau Aquifer FMU row in the table in Schedule 1 should be amended to read as follows (retain text about exclusions) –

|                        |                         |            |  |
|------------------------|-------------------------|------------|--|
| <b>“Wairau Aquifer</b> | <b>Municipal Supply</b> | <b>n/a</b> | <b>17,789,500</b>                          |
|                        | <i>n/a</i>              | <i>n/a</i> | <del>73,006,000</del> <b>55,216,500”</b> . |

869. The Flaxbourne – Central FMU Class A allocation (third column) in the table in Schedule 1 should be amended to read as follows –

~~“495~~ **275”**.

870. The Flaxbourne – Lower FMU Class A allocation (third column) in the table in Schedule 1 should be amended to read as follows –

~~“1850~~ **2070”**.

871. Insert a new row in the table in Schedule 1, to read as follows –

|   |            |               |            |
|---|------------|---------------|------------|
| <b>“Ōpaoa</b>   | <b>n/a</b> | <b>24,000</b> | <b>n/a</b> |
| <b>(below the confluence of the Opaoa and Taylor Rivers)”</b> . |            |               |            |

872. The Ōpaoa FMU row in the table in Schedule 1 should be amended to read as follows (retain text about exclusions) –

|   |            |               |              |            |
|---|------------|---------------|--------------|------------|
| <b>“Ōpaoa</b>   | <b>n/a</b> | <b>25,000</b> | <b>1,000</b> | <b>n/a</b> |
| <b>(from <del>below O’Dwyers Mills and Ford Road</del> to the confluence of the Opaoa and Taylor Rivers)”</b> . |            |               |              |            |

873. The Ōpaoa FMU description (first column) in the table in Schedule 1 should be amended to read as follows –

*“Opaoa (~~above O’Dwyers Mills and Ford Road~~)”*.

874. The Roses Overflow FMU description (first column) in the table in Schedule 1 should be amended to read as follows –

*“Roses Overflow (**below control weir**)”.*

#### Policy 5.3.4

875. Policy 5.3.4 reads as follows –

*“Establish allocation volumes for municipal water supplies and avoid applying management flows and levels to the taking of water for the purpose of municipal supply.”*

876. There are five submissions<sup>53</sup> that support Policy 5.3.4 and seek its retention as notified.

877. The NMDHB submission (280.014) seeks that consideration be given to expanding Policy 5.3.4 to also include networked community water supplies not administered by the MDC, as the submitter questions whether the same exemption should be applied to other networked community water supplies.

878. The relief sought it already provided for in Policy 5.2.5, which stipulates management flows and levels are not to be applied to domestic and stock water, even when the take is permitted by way of resource consent. On the basis the relief sought is already provided, albeit elsewhere, I have recorded the recommendation as accept in Appendix 1.

879. The Rai Mussels Limited submission (1087.003) seeks that the Policy be extended to include industrial and commercial use, for the reasons given in submission point 1087.002 on Policy 5.3.1. Based on that submission, it is assumed the submitter is referring to industrial and commercial use not within a municipal supply. In submission 1087.002 the concern was highlighted about commercial and industrial water users on a municipal supply having an advantage over the same type of users that are not accessing water through a municipal supply.

880. It was acknowledged in relation to the earlier submission that this matter of equitability was a valid concern, however in my view, if any changes were made to provisions in response, it would be to find a way to impose restrictions on industrial and commercial users within municipal supplies, not to give an exemption from restrictions to these types of users outside of municipal networks. However, for the reasons already discussed, I do not consider this to be a particularly viable option, and I do not support the submitters approach as being preferable to the notified provisions.

881. The Federated Farmers submission (425.049) seeks for the Policy to be amended to remove the exemption from management flows and levels for municipal supplies. The submitter opposes this Policy on the basis that it provides preferential treatment to urban industrial uses of water over rural industries. In the submitter’s view the Plan should distinguish between municipal supply that is for essential domestic needs, and that which is used for commercial or industrial purposes.

882. For the most part the issue raised is similar to the preceding submission, so the assessment/comments are valid for both. However, I note the submitters issues are with industrial water users but it has removed the exemption for all municipal supplies, and therefore all types of users including human and stock drinking water. The submitter may clarify the relief sought at the hearing, however based on the submission lodged no changes are recommended to the Policy (although the validity of the equity issue in some circumstances is acknowledged as above).

883. The other aspect of this submission, which is not related to the earlier one, is that the amendment is sought to a provision that is primarily about setting allocations in the MEP specifically for municipal supplies. While it does also reference the exemption from

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<sup>53</sup> 548.038 (AWUG), 962.018 (MFIA), 712.063 (Flaxbourne Settlers Association), 715.043 (Forest and Bird) and 1238.012 (Windermere Forests Limited)

management flows and levels, that is in the context of an allocation limit being set and a suite of provisions that are about quantity allocations. If the Panel were of a mind to provide the exemption sought by the submitter, it is recommended that it be applied elsewhere, perhaps under Objective 5.2.

884. The Levide Capital Limited submission (907.003) seeks that the Policy be amended to include specific reference to the Riverlands Irrigation Scheme, being by definition a "municipal water supply" and a protected class of water user, in addition to residential, commercial and industrial activities. The submitter would like to see Council support sustainable development initiatives in over-allocated FMUs, such as Riverlands and seeks to have pipes over Council land to bring non-potable river water into the area to support and expand its current vineyard operation, and to have land zoned to expand the existing Cloudy Bay Business Park. However, the submitter states that Assets and Services have to date rejected any possibility of using their land to transfer additional water onto the submitter's land.
885. The Riverlands FMU municipal supply is covered by this Policy, however I am not clear if this is what the submitter is referring to, especially as it is an aquifer take and the submission goes on to discuss seeking a Council pipeline to abstract river water. At this stage it is not clear whether the existing provisions do or do not already cover the concerns of the submitter, and some of the issues raised are likely to be outside of the scope of the MEP, however in my view, it does not appear that the Policy should be amended as a consequence of this submission. It is noted that the separate allocation for the Riverlands FMU municipal supply was omitted from Schedule 1 in Appendix 6 in error and MDC submission 91.141 (considered earlier) seeks to correct this.
886. The Fish and Game submission (509.061) seeks for the Policy to be removed from the MEP in its entirety as municipal water takes, as with all other water takes, need to be managed within sustainable limits.
887. To some degree this Policy actually does what the submitter is seeking as it sets allocation limits for municipal supplies which, like all other allocation limits, cannot be exceeded. However, it would be a significant change to apply environmental flows and limits to municipal water users as sought, and the submitter has provided very little in the way of justification for this change. I am not persuaded by the submission that the drinking water of people and stock provided by a municipal supply should be subject to environmental flows and limits.
888. The Irrigation NZ submission (778.040) seeks for the Policy to be amended to add a requirement for municipal supplies to implement a low flow management plan once river flows or aquifer flows have dropped beyond the river management flows or minimum aquifer levels, or alternatively, add this as new policy. The submitter is of the view that municipal supplies should have a low flow water supply management plan in place that demonstrates how they will responsibly manage their water supply once river management flows or aquifer levels have been triggered. It is important that everyone 'does their bit' for the health of the river or aquifer.
889. In my view, the relief sought is already appropriately provided for in Policy 5.2.17, which reads – "*Implement water restrictions for water users serviced by municipal water supplies when the management flows/levels for the resource from which the water is taken are reached*". As the submitter sought the retention of Policy 5.2.17 as notified, it has to be assumed that the submission on Policy 5.3.4 is seeking something more or different, the submitter may choose to elaborate at the hearing.
890. The EDS submission (698.024) seeks the amendment of the Policy to clarify its meaning and to reflect that municipal takes should be incorporated into the allocable quantum (generally via precautionary estimate) before other takes are allocated. This is necessary to ensure that the freshwater is sustainability managed and that over-allocation is avoided. The submitter is of the view that the intent of this policy is unclear as it could be interpreted to infer that

municipal takes are not incorporated into Marlborough's water management framework, and if this is the case this is opposed.

891. I am not clear why the submitter finds this Policy to be unclear, it states allocation limits will be established, and allocation limits are in Schedule 1 of Appendix 6, therefore they are part of the framework. It is acknowledged that there are errors in the notified MEP in that the municipal allocations for the Wairau Aquifer and Riverlands FMUs were inadvertently not separated out from the general allocations for these FMUs, and this may be where the submitters confusion arises from. MDC submissions 91.141 and 91.142 (considered earlier) seek to correct these errors.

### **Recommendation**

892. It is recommended that Policy 5.3.4, and the associated explanation, are retained as notified.

### **Policy 5.3.5**

893. Policy 5.3.5 reads as follows –

*“Enable the take and use of water where it will have little or no adverse effect on water resources.”*

894. There are 21 submissions<sup>54</sup> that support Policy 5.3.5 and seek its retention as notified.
895. The Fulton Hogan submission (717.024) seeks the removal of this Policy from the MEP, or its amendment to refer to effects on the values associated with water resources as opposed to the water resource itself, and to clarify that enable in the context of this policy means permit. The submitter is of the view that without any explanation this Policy suggests only very small amounts of water can be abstracted, and a reference to values associated with water resources would provide clearer direction. In addition, this Policy does not have any link to allocation limits or environmental flows which are the key tools used for determining whether adverse effects are appropriate. Consequently, the Policy could be interpreted as only allowing water abstraction where there is very limited effect.
896. The submitter is correct, the Policy only allows water abstraction where there is very limited effect, that is the intent. As explained in the explanation to the Policy, this is enabled either through Permitted Activity rules, or through permits being granted within the allocation limits set in the MEP (but noting localised effects still need to be considered). If an activity has little or no effect on a water resource, then it will have little or no effect on the natural and human use values supported by a waterbody as this would be the measure of whether there would be an effect. In my view, this does not need to be spelled out in the Policy itself. It would read as a bit of a circular argument if it did as the Policy itself is, in part, permitting activities that are “human values”, so it would be like saying enable the take and use of water for domestic needs that has no effect on the take and use of water for domestic needs. If the Panel was of a mind that clarity was needed, perhaps some tweaking of the explanation could be considered.
897. The Te Ātiawa submission (1186.040) seeks the amendment of this Policy to add ‘cultural values’ to the end of the sentence as water is of significant cultural/value to all iwi and cultural values should form part of the consideration.
898. As explained in relation to the Fulton Hogan Limited submission, if an activity has little or no effect on a water resource, then it will have little or no effect on the natural and human use values supported by a waterbody, and as described in the provisions under Objective 5.2,

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<sup>54</sup> 425.051 (Federated Farmers), 431.051 (Wine Marlborough), 457.007 (Accolade), 1218.007 (Villa Maria), 479.032 (DOC), 778.041 (Irrigation NZ), 873.012 (KiwiRail), 631.008 (Constellation), 676.029 (Dairy NZ), 473.006 (Delegat Limited), 484.010 (Clintondale), 776.004 (Indevin Estates Limited), 909.007 (Longfield Farm Limited), 548.039 (AWUG), 993.006 (FENZ), 962.019 (MFIA), 1251.013 (Fonterra), 1242.008 (Yealands Estate Limited), 712.064 (Flaxbourne Settlers Association), 715.044 (Forest and Bird) and 1238.013 (Windermere Forests Limited)

this includes cultural values. In my view, the cultural values are already considered when all of the provisions are viewed as a whole. In addition, I note that this Policy is implemented in part by way of Permitted Activities, which include the take and use of water for use on marae and for papakāinga. As mentioned above, if the Panel was of a mind that clarity was needed, perhaps the explanation could be amended.

899. The Fish and Game submission (509.062) and the EDS submission (698.025) seek the removal of this Policy from the MEP as in their view the Policy does not appropriately consider cumulative effects. Water should only be taken within sustainable limits, and small adverse effects cumulatively add up to large effects, which the setting of limits for water is to avoid. EDS also state that all permitted and consented takes should be incorporated into the allocable quantum to ensure that water is managed within sustainable limits.
900. As stated in the submissions, the setting of limits for water is to avoid adverse effects. The limit setting under Objective 5.2 and the allocation limit setting under this suite of provisions, set those limits and that has been done taking into account all the potential effects. As a product of the extensive review process the Permitted Activities and allocation limits have been determined to have little or no adverse effect. The suggestion of EDS that Permitted Activities should be incorporated into the allocable quantum is problematic, for one, the nature of the activities is such that the Council does not know about when or where they are occurring and therefore can not measuring or monitor the activity against the allocation limit, and secondly the nature of the activities are such that some may happen often in one place but infrequently in another, or happen multiple time ones year but never in another year. Would you try and work out the worst case scenario for each activity in each FMU and then add that to the allocation limit? What about new developments, would you factor in growth that would increase the utilisation of Permitted Activities (new houses, marae, roads etc)? Would you have an allocation limit for Permitted Activities separate from the general allocation limit in each FMU to prevent consents being sort for the allocation necessary to support the Permitted Activities?
901. Where the submitters have identified in submissions specific FMU allocation limits and rules that they consider are not sustainable, these have been addressed elsewhere under the applicable provisions. However, for the most part these have been generalisations that reflect a generic approach that the PNESEF should be the basis for all limit setting, rather than the specific identification of potential effects of concern in FMUs. To be clear, the removal of this Policy would in effect remove all Permitted Activities in the MEP to take and use water, and I am not convinced by the submissions to support such a move. The limits are set to maintain natural and human use values, if the water needed for those values was part of the limit then it seems to me the approach for the whole management framework would need to be reconsidered. If EDS are aware of other regions that have allocation limits that incorporate all permitted and consented takes into the allocable quantum, it would be useful for them to be identified in hearing evidence so consideration could be given to how others are approaching this issue.

### ***Recommendation***

902. It is recommended that Policy 5.3.5, and the associated explanation, are retained as notified.

### **Heading 2.2 – Permitted Activities**

903. Under Heading 2.2 in the General Rules chapter of Volume 2 are the Permitted Activity rules for RMA s14 activities. The submissions that follow have been lodged against Heading 2.2 as a whole, rather than any particular rule under that Heading.
904. There is one submission<sup>55</sup> that supports the provisions under Heading 2.2, except where specifically submitted on elsewhere, and seeks their retention as notified.

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<sup>55</sup> 908.019 (Lion)

## Dust Suppression

905. Several submissions<sup>56</sup> seek the addition of a Permitted Activity for dust suppression. Marlborough Roads seek to take and use water for the purpose of dust suppression on gravel roads up to 20m<sup>3</sup> per waterbody per day, and have sought the same standards as the MEP applies to the take and use of water for road construction works (see Heading 2.3.10). Davidson Group Limited and the Marlborough Motor-Cycle Club Incorporated seek to take and use water up to 50m<sup>3</sup> per site per day for up to 50 days per year for dust control for sports, most construction sites, haul roads and the like. Larger-scale construction operations would still need a water permit for large volume and/or longer duration takes. The submitters anticipate that standards would be added that would include aspects such as a maximum proportion of take of surface flow and restrictions in resource areas that are over-allocated or under restriction. It may also be desirable for records to be kept and for those to be provided to Council upon request.
906. Marlborough Roads states the dust suppression activity as taking several forms, the most common is taking of limited amounts of water from nearby rivers and streams to then be sprayed onto gravel road surfaces during summer months, and particularly during period with high wind conditions when dust nuisance becomes a significant issue in the district. The submitter is of the view that it is appropriate that, subject to standards, this activity be provided for as a Permitted Activity, as otherwise dust can become a significant road safety hazard, public health issue and public nuisance within the district.
907. Davidson Group Limited and the Marlborough Motor-Cycle Club Incorporated consider that it would be appropriate to have some ability to take water for dust suppression as a Permitted Activity of some limited volume and duration so as to not potentially have to go through a publicly notified resource consent application process. The submitters note that Standards 3.2.9.1 and 4.2.6.1 in the Rural Environment and Coastal Environment Zones require dust suppression but there is no provision in the MEP for the taking of water for this purpose as a Permitted Activity. Dust is also a major health and safety issue and can be a problem at any time of the year in our climate.
908. It is noted that while the submitters justified the addition of the activity, none of them addressed the potential effects of the activity on waterbodies (or their values) to demonstrate that there would be little or no effect. I also find the interpretation of Standards 3.2.9.1 and 4.2.6.1 to be a little skewed, the provisions do not require dust suppression by water but require that a Permitted Activity in the relevant zones use the best practicable method to avoid dust beyond the site boundary.
909. The submissions have been considered by Peter Davidson and Val Wadsworth and they are both amenable to there being some level of Permitted Activity for the purposes of dust suppression. Peter is comfortable with a volume of 20m<sup>3</sup> but is of a view that a larger volume should require resource consent. He would also like there to be a standard linking the activity to dry weather conditions. Val sees the proposed provision sitting alongside, or even within, Rule 2.2.11 (take and use of water for road or river control construction) and notes that the concern would be less about the daily total, and more about the instantaneous abstraction rate.
910. It seems that overall there is support for including a provision of this nature in some form. In terms of the Marlborough Roads submission, I am of the view that the abstraction should be per road site not per waterbody as it is possible that they may need to take water from different locations within a waterbody on a dry day for different parts of the road and the rule as they propose may hobble them. I do note that technically there may be a scope issue here as what I propose would potentially result in more water being permitted for abstraction

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<sup>56</sup> 967.009 and 967.010 (Marlborough Roads), 172.002 (Davidson Group Limited) and 267.001 (Marlborough Motor-Cycle Club Incorporated)



the in the relief sought. Apart from that I would be comfortable recommending the acceptance of the Marlborough Road's submissions, and this is reflected in the Recommendations section below. I have recorded the addition based on my view about the abstraction being per site but am mindful of the potential scope issue.

911. With regards to the Davidson Group Limited and the Marlborough Motor-Cycle Club Incorporated relief sought, I am less certain about this proposal. There is little information about the activity and how much would be abstracted from water resources. While they seek 50m<sup>3</sup> per site per day for up to 50 days per year, they also give a wide variation of related activities for which water could be used for dust suppression – e.g. sports, construction sites, haul roads. Unlike the existing Rule 2.2.11 or the proposed Marlborough Roads rule, which are limited to construction sites and gravel roads, and to be conducted by MDC or the roading authority, this proposed addition could be undertaken by anyone, for any dust suppression purpose, from any waterbody. For example, a sports club, forestry company and a construction company could all take 50m<sup>3</sup> each from the same river system on the same day, and potentially for up to 49 days more. At this time, I am concerned that the potential effects of the relief sought have not been adequately considered, and that a sufficiently robust set of standards have not been offered, so the submissions are not supported. As stated earlier there is general support for providing for this type of activity so it is anticipated that evidence will be provide to assist with this discussion.

#### National Grid

912. The Transpower NZ Limited submissions (1198.039 and 1198.040) seek addition of a new Permitted Activity rule – “**Take, use, damming and diversion of water for the operation, maintenance, upgrade and development of the National Grid.**” The proposed standards are the same as for many other Permitted Activities regarding instantaneous rate, Natural State waterbodies, Significant Wetlands and the take and dam not otherwise being permitted or consented. The submitter is of the view that the notified rules fail to consider water take, use, damming or diversion that might be necessary for the operation, maintenance, upgrade and development of the National Grid in a manner that gives effect to the NPSET.
913. The rule sought is very enabling, it not only seeks to be able to take and use water, but also to dam and divert it. There is absolutely no quantification of the amount of water to be taken, used, dammed or diverted, or the frequency at which the activity will be undertaken. The submitter states the rules fail to consider their activity, they are making the assumption that consideration would have to have manifested itself as a Permitted Activity. There is no consideration in the submission of the effects of their activity, or demonstration that there will be little or no effects, which would mean the rule would sit comfortably with the higher provisions. The Council has a responsibility to give effect to the NPSET and the NPSFM.

#### Stream Depletion Tests

914. The T Hewitt submission (90.001) seeks addition of a new Permitted Activity rule similar to Rule 2.2.10 (bore tests) but for surface flow testing. The rule would enable the taking of water for purposes of completing a stream depletion test to determine effects on downstream users and/or values, and at no time would testing remove more than 10% of the flow or be carried out for more than 14 days in any one year. Water would only be pumped to land using approved irrigation methods.
915. This submission has been considered by Val Wadsworth, and the following is his advice –
- Val understands what the submitter wants to do as MDC have had similar issues with assessing stream flows in some particular areas.
  - In some northern streams where a surface water body is well connected to a high producing aquifer (for instance the Waikakaho River) taking of water from the surface

water body does not cause a 1:1 depletion of the surface water, as it is significantly buffered by the adjacent groundwater – a reverse stream depletion effect if you like.

- Unfortunately, Val is of the view that a simple Permitted Activity, as suggested by Mr Hewitt, could be seriously misused by someone wanting to water crops without consent.
- The activity would need to rely on the 10% standard to ensure lack of effects on the ecology of the waterway, but the Council would have no overview, as there is no Standard to design a proper test, notify Council of the testing in advance, or report subsequent to the testing (note some of these issues could also occur under the bore testing permitted activity as well).
- The Council has had situations in the past where we have required consent to be gained for the pump test, which is what the submitter is trying to avoid.
- So, while Val has some sympathy for the submission, he is of the view that there are not enough checks and balances to ensure protection of the instream environment.
- Val has also discussed this with Peter Hamill, and he strongly concurs with Val's assessment.

916. Based on the lack of specificity and consideration of potential effects in the submission, and the advice of Val Wadsworth, supported by Peter Hamill, I do not recommend the addition of this rule at this time.

#### Regionally Significant Infrastructure

917. The KiwiRail submission (873.085) seeks addition of a new Permitted Activity rule and standards as follows –

Rule – “**Minor damming and diversions of water associated with the maintenance or upgrade of regionally significant infrastructure.**”

Standard 1 – “**Fish passage shall not be impeded as a result of the activity;**”

Standard 2 – “**Any activity in the water shall be kept to a minimum to avoid, as much as practicable, discolouration to the river or lake. Where any sediment release occurs, it will be only temporary;**”

Standard 3 – “**Any bed disturbance shall be kept to the minimum necessary to undertake the activity and shall be returned as near as practicable to its original channel shape, area, depth, or gradient on completion of the activity (with the exception of revegetation);**”

Standard 4 – “**No fuel storage or machinery refuelling shall occur on any area of the bed;**”

Standard 5 – “**No contaminants, other than sediment released from the bed, shall be discharged to water during the activity unless allowed by a relevant permitted activity rule or resource consent;**”

Standard 6 – “**Before any equipment, machinery, or operating plant is moved to a new activity site it shall be effectively cleaned to prevent the spread of “pests” or “unwanted organisms” as defined by the Biosecurity Act 1993;**”

Standard 7 – “**All equipment, machinery, operating plant and debris associated with the bed disturbance activity shall be removed from the site on completion of the activity;**”

Standard 8 – “**From the beginning of November until the end of May, there shall be no disturbance of the tidal river habitat up to the spring tide level;**”

Standard 9 – “***The diversion is carried out completely within a river or lake bed (i.e. no water is diverted outside of the river or lake bed);***”

Standard 10 – “***The water is returned to its original course after completion of the activity, no later than one month after the damming and diversion occurs.***”

918. The submitter states that the ability to undertake a short term dam and diversion of part of a watercourse to facilitate construction works is not provided for within the rule framework as notified in the MEP. There are permitted standards for the damming of water, up to 5000m<sup>3</sup>, and the subsequent use of that water, however that does not provide for temporary damming and diversion activities. These would default to a Discretionary Activity status requiring resource consent under Rules 2.5.4 and 2.5.5. The submitter is of the view that the environmental effect of a temporary damming and diversion to allow for maintenance, upgrade or replacement in relation to regionally significant infrastructure would be able to be managed to ensure no disruption to fish passage, no flooding effects on private land, that it would only occur for a short period of time to enable works, and would unlikely be an entire watercourse but rather a part of it at any given time to facilitate the construction works. The effects of these works are submitted as not being significantly different from damming 5000m<sup>3</sup> of water.
919. The submitter is comparing its activity (and effects) to the Permitted Activity Rule 2.2.17 (damming and using up to 5000m<sup>3</sup> of water), however the activities are quite different. Rule 2.2.17 is only the s14 permission to dam 5000m<sup>3</sup> of water, it does not permit any s13 riverbed activities, which appear to be part of the submitter’s activity based on the Standards offered. Effectively, Rule 2.2.17 is just allowing a farmer to dam up to 5000m<sup>3</sup> of water for his stock water, in most cases this will involve ponds that are not within intermittently or perennially following rivers. In my view, it seems that the submitter needs to primarily seek riverbed activity provisions (if they are not already there), and then if it’s appropriate a corresponding s14 Permitted Activity (assuming there are little or no effects).
920. This submission has been considered by Peter Hamill and the following is his advice –
- Peter does not support the submission by KiwiRail to have a Permitted Activity for diverting and damming for the maintenance and upgrade of regionally significant infrastructure. The diversion and damming of water can have major ecological implications, and what seems minor to KiwiRail could be significant in terms of ecological condition.
  - The standards provided are also inadequate and, if the Panel were of a mind to accept the submission the second standard proposed would need to be removed. “*Kept to a minimum to avoid, as much as practicable*” is essentially saying do what you want and when someone catches you say it was all I could do.
921. This submission has also been considered by Val Wadsworth and he concurs with Peter Hamill’s assessment, and notes that KiwiRail tend to work on a large scale, and decisions such as this may end up in the hands of a track engineer or crew, rather than someone qualified to make an informed decision on what is minor.
922. Another matter, which has come up before in relation to Oil Company submissions, is the request for a provision that will extend beyond the submitter’s activities. The relief sought would apply to all regionally significant infrastructure, not just KiwiRail, it is not clear from the submission that the ramifications of that have been thought through. It may not be an issue, but it does need to be considered. Based on the submission content, in particular the reliance on a comparison with the effects of what is, in my view, a different activity, and the advice of Messrs Wadsworth and Hamill, the submission is not supported at this time.

#### Temporary Military Training Activities

923. The NZDF submission (992.043) seeks addition of a new Permitted Activity rule and standards as follows –

Rule – ***“The take, use and discharge to land of surface water for the reasonable use of water treatment units operated by the New Zealand Defence Force, up to 5% of the river flow at any time.”***

Standard 1 – ***“The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland.”***

Standard 2 – ***“The take must not occur for more than ten consecutive days.”***

924. The submitter is of the view that the MEP as notified does not adequately provide for water takes, use and discharge associated with temporary military training activities. The lack of specific rules for water takes associated with temporary military training activities means that NZDF would be required to apply for consent as a Discretionary Activity, and would be subject to the allocation limits for the relevant FMU. This is considered overly onerous for the temporary and minor nature of the water take required for these training activities. Further information on the water treatment units operated by NZDF is attached to it submission as Appendix B. Rule 13.1.33 and standard 13.3.22 appears to provide for the take and use of coastal water, including for these activities.
925. I am not of the view that the submission adequate considers the effects of the activity on potentially any river in Marlborough. The submission attachment describes takes of up to 210m<sup>3</sup> per day, this is not a small volume of water relative to the flow in some rivers (and at some times of the year), and there are no other Permitted Activity water takes that even come close to this daily volume. The Standards offer states it will not occur from more than 10 consecutive days, however the attachment provided states exercises could be for up to 3 weeks, does this mean water could potentially be abstracted for 10 days, stop for a day, then abstracted for a further 10 days? The attachment also indicates that these activities only occur two to four times a year nationwide, that would appear to give the submitters ample time to ensure their activity was going to be sustainable from a particular river and get a resource consent. I find the comparison with Rule 13.1.33 to be unhelpful, the taking of 210m<sup>3</sup> per day from the ocean is hardly comparable to taking the same volume from a river or stream. I am not convinced by this submission that the effects of this activity do not warrant the Discretionary Activity status that it currently would have.

#### Minor Takes

926. The Pernod Ricard submission (1039.105) seeks that consideration be given to providing for minor takes, for example takes for wash down/spraying of machinery, and for filling agricultural spray tanks takes to be Permitted or Controlled Activities.
927. The relief sought is already provided for in the notified MEP – Rule 2.2.5 permits the take and use of up to 5m<sup>3</sup> per day for incidental use associated with farming and Rule 2.2.65 permits the take and use of up to 15m<sup>3</sup> per day for dairy shed wash water. Beyond this, irrigation water permits when permitted to take water can be used for these purposes if required, and if greater volumes are necessary, then resource consent can be sought to take water for these purposes during the off-season. The relief sought appears to be provided for but due to the brevity of the submission, I cannot be certain the submitter would agree, therefore I have recorded the submission as accepted in part.

#### Barnes Dam Municipal Supply

928. The MDC submission (91.065) seeks the addition of a new Permitted Activity that reads – ***“Use of water from the Barnes Dam on a tributary of the Waitohi Stream by the Marlborough District Council for municipal supply purposes.”*** The use of water from Waitohi Stream by the Council via a dam is not a water take, and therefore does not have an allocation for municipal supply identified in Appendix 6, it is requested that this Permitted Activity rule is added to specifically identify this activity carried out by the Council. This is an existing situation and the requested addition is a technicality. There were no meaningful further submissions on this submission.

### Alternate Permitted Activity Approach

929. The Federated Farmers submission (425.437) seeks the addition of a new Permitted Activity Rule that enables 10m<sup>3</sup>/day (at a rate not exceeding 5l/s) to be taken and used from groundwater, enables various volumes (from 2m<sup>3</sup>/day to 100m<sup>3</sup>/day) of water to be taken and used from a river depending on the flow in the river, and enables various volumes (from 10m<sup>3</sup>/day to 50m<sup>3</sup>/day) of water to be taken and used from an artificial watercourse or lake.
930. The submitter is supportive of the provision of water for people to take, over and above S14(3)(b) takes but are unclear whether these rules apply to takes from ground and/or surface water. The submitter states that often plans differentiate between the taking of ground and surface waters for a number of legitimate reasons, one being that often it is entirely appropriate to allow for a larger volume of water to be taken from larger waterways and smaller volume from smaller waterways as a Permitted Activity. I will not repeat the next part of the submission it is quite inaccurate and reflects a lack of understanding of the existing and notified provisions, however I get the gist of what the submitter is getting at so I will paraphrase. Under the WARMP there is a Permitted Activity take of 15m<sup>3</sup>/day from the Wairau Aquifer for any purpose. Due to the overallocated status of the Wairau Aquifer FMU in the MEP, this permission is not ongoing and the submitter is concerned about this for its members.
931. Firstly, I'll address the new rule sought. I find there to be quite a disconnect between the relief sought and the discussion in the submission. I feel like I am having to make a lot of assumptions about what the intention is in order to assess the relief. At this stage I am going to simply take the position that there is insufficient information or clarity in the submission for me to support the quite radical alternative approach to Permitted Activities, and signal a preference for the notified MEP provisions. I will add as a response to the concerns about ground and surface water, that many of the rules apply to both, and some do not, and in these instances, it is clear in the provision. For example, Rule 2.2.1 does not specify any type of source so it could be either, but Rule 2.2.15 specifically states it relates only to surface water.
932. Regarding the 15m<sup>3</sup>/day from the Wairau Aquifer, as a Permitted Activity this was no longer sustainable given the over-allocated nature of the FMU. The MEP have a Permitted Activity rule that provided people who had been relying on that provision with 12 months to seek a resource consent for the same activity. It is noted that 15m<sup>3</sup>/day permitted take under the WARMP included domestic and stock water (i.e. it was not in addition to those permissions), therefore under the MEP the same people still have permission to take 5m<sup>3</sup>/day for domestic needs, their reasonable requirement for animal drinking water, and a new provision to take up to 5m<sup>3</sup>/day for incidental use associated with farming. So, all things considered, it is unlikely that the submitters members have been affected by the removal of the 15m<sup>3</sup>/day Permitted Activity take and use from the Wairau Aquifer, and potentially its constituents outside of the Wairau Aquifer are advantage over the previous provisions as the MEP does not differentiate by water resource for these activities so they apply across all FMUs.

### Existing Viticulture and Horticulture Takes a Permitted Activity

933. The Levide Capital Limited submission (907.034) seeks the amendment of the Permitted Activity rules to include the take and use of water consented for viticulture and horticulture prior to the date of notification of the MEP. The submission states that the proposed rules for water take, damming or diversion do not appropriately address issues identified in the submission relating to the objectives and policies for water take and use.
934. In my view, to, in essence, make all water take and use for viticulture and horticulture in Marlborough a Permitted Activity would be completely unacceptable on many levels. Given the lack of any real justification, rationale, consideration of effects, and so on, in the submission to warrant such a radical approach, I have not considered this submission any further.

### Construction of a Bore in Road Reserve

935. The NZTA submission (1002.110) seeks the addition of a new Permitted Activity rule for the construction or alteration of a bore within the legal road for the purpose of investigating or monitoring conditions below the ground surface, including associated diversion and discharge of water or contaminants. They have supplied Standards requiring the bore to be drilled by a Recognised Professional, a copy of the bore log to given to the Council, that on completion of the geotechnical investigation, the bore must be sealed or capped to prevent any potential contamination of groundwater, and that the activity must not cause flooding or erosion of private land.
936. The submitter is of the view that the absence of a specific rule for bores in the general rules means that it is not otherwise provided for in the legal road and would default to a Discretionary Activity status under Rule 2.5. It is appropriate that the MEP includes specific rules for investigation and monitoring bores within the legal road. The suggested rule is based on Rules 3.1.17 and 3.1.18 for the Rural Environment Zone, although associated diversion and discharge of water or contaminants is also explicitly included, and a standard relating to flooding is included.
937. The relief sought is quite a mash up but I'll attempt to break it down. The absence of a rule to permit the construction or alteration of a bore in road reserve does not mean it defaults to a Permitted Activity under 2.5, as it is a land use activity on unzoned land so it neither needs a permission or a resource consent. Now the addition of the diversion and discharge of water does trip potentially trip it into s14, however if it is now moving from a geotechnical bore (i.e. not involving the abstraction and use of water), to a bore from which water is taken (although they call it a diversion), then any pump test they do is permitted under Rule 2.2.10. The "discharge" of the water from the pump test onto ground is not a discharge as its just water being released onto land. If somehow, they were discharging contaminants, then they should have to get a resource consent. The addition of the standard regarding not causing flooding is a confusion to me, the only reason I can think they may add it would be if the volume of water being taken in the pump test was very substantial and could be a risk when released onto land.
938. It is my view, that the activities for which permissions are sought are either already provided for or not require, and therefore no additional provisions are necessary, however I accept that greater clarity on the activities may be provided in evidence that could cause me to reconsider.

### Diversion into Para Wetland

939. The Fish and Game submission (509.244) seeks the addition of a new Permitted Activity rules for the diversion of no more than 50l/s into Para Wetland for non-consumptive use for the purposes of wetland restoration. This is for the purpose of Para wetland preservation/enhancement.
940. This submission has been considered by Peter Hamill and he is of the view that there is not enough information on the relief sought to be able to make a decision to make this a Permitted Activity, and there would need to be standards associated with such a Permitted Activity. The area is a Significant Wetland and channels have been dug through it in the past that are not necessarily appropriate for wetland restoration but are designed specifically for waterfowl habitat. There may also need to be a Permitted Activity for earthworks in the bed of a Significant Wetland added to carry out the diversions.
941. This submission has been considered by Val Wadsworth and he is of the view that –
- Firstly, this needs to specify diversion of water from the Tuamarina River into Para wetland.

- Low flows in the Tuamarina River at Para Road have been recorded as low as 50L/s, although there are a couple of small tributaries below here. So, 50L/s diversion is a big deal at low flows.
- Perhaps a percentage of recorded Tuamarina at Para Road flows, say no more than 20%, with a requirement for Fish and Game to provide prior advice, and real time monitoring information, much the same as they would suggest from other users.

942. Based on my own assessment, the brevity of the submission, and the advice of Messrs Hamill and Wadsworth, the relief is not supported at this time.

### **Recommendation**

943. It is recommended that, except where specified below, the Permitted Activities listed under Heading 2.1 in Volume 2 are retained as notified.

944. It is recommended that a new Permitted Activity rule is added as follows –

**Rule – “Take and use water for the purpose of dust suppression on gravel roads up to 20m<sup>3</sup> per road site per day.”**

**Standard 1 – “Where the take is from a river, except an ephemerally flowing river, the instantaneous take rate must not exceed 5% of river flow at any time.”**

**Standard 2 – “The take must not occur on more than 90 days within any 12 month period.”**

**Standard 3 – “The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland.”**

**Standard 4 – “Dust suppression on gravel roads must be undertaken by, or on behalf of the Marlborough District Council or the road controlling authority.”**

945. It is recommended that a new Permitted Activity rule is added as follows –

**“Use of water from the Barnes Dam on a tributary of the Waitohi Stream by the Marlborough District Council for municipal supply purposes.”**

### **Rule 2.2.1**

946. Rule 2.2.1 (and associated Heading 2.3.1, and Standards 2.3.1.2 and 2.3.1.3) reads as follows –

*“Take and use of water for an individual’s reasonable domestic needs up to 5m<sup>3</sup> per day per dwelling.....”*

*2.3.1.2. The take is limited to one dwelling per take point except where multiple dwellings exist on a single Computer Register or on contiguous Computer Registers under the same ownership, in which case there may be up to three dwellings per take point.*

*2.3.1.3. The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland.....”*

947. There are four submissions<sup>57</sup> that support Rule 2.2.1 (Heading 2.3.1) and seek its retention as notified.

<sup>57</sup> 548.092 and 548.105 (AWUG), 424.135 (M and K Gerard) and 509.205 (Fish and Game)

948. The Horticulture NZ submissions (769.075 and 769.078) seek that the Rule is amended by replacing “dwelling” with “habitable building”. The submitter is of the view that dwelling is defined in the plan but does not include all habitable buildings, such as retirement accommodation or workers accommodation. The Rule should provide for all individual’s reasonable domestic needs.
949. It would not be appropriate to amend the Rule as sought as, beyond what is permitted, there may be adverse effects on the environment. It is appropriate that activities beyond that permitted require a resource consent, however it is noted that the policy direction in the MEP is such that these abstractions would not incur management flows or levels.
950. The Te Ātiawa submission (1186.101) seeks that the Rule is amended by replacing “*5m<sup>3</sup> per day*” with “*2m<sup>3</sup> per day*”. The submitter is of the view that the allocation is set too high and the amount should be no more than 2 cubic metres per day as per previous consent decisions of MDC.
951. The submitter has provided very little by way of justification for this change. It is my understanding that the consent decisions referred to are likely to be subdivisions, where the lower volume was promoted by the developer in order to obtain a consent in a water short area, rather than being sought by MDC for environmental reasons. The submitter may provide further information in evidence if I am not correct in my assumption.
952. The Federated Farmers submissions (425.436 and 425.438) seek that the Rule is removed from the MEP. The submitter is of the view that s14(3)(b) of the Act enables people to take a reasonable amount of water for their domestic and stock needs without the need for the activity to be stated within a Plan as a Permitted Activity. While the submitter acknowledges that such takes under the Act are not without restrictions, it is its view that the onus is upon the Council to determine, on a case-by-case basis that a take under s14(3)(b) is having an adverse environmental effect necessitating a rule such as is being proposed here. Similar submissions (425.439 and 425.440) were lodged on Rule 2.2.4 and Heading 2.3.4.
953. A take of water under s14(3)(b) by its very nature, is a take the Council does not necessarily know about, how would the submitter suggest the Council identify each s14(3)(b) abstraction and do a case-by-case basis assessment of whether it is having an adverse effect on the environment. The Council has determined that abstractions for domestic needs beyond what has been permitted in this rule are likely to have an adverse effect on the environment, this is an acceptable approach in my view, and consistent with s14(3)(b) which enables water to be taken for this purpose if it does not, or is not likely to, have an adverse effect on the environment.
954. The Fish and Game submissions (509.206 and 509.229) seek to have the Standard also apply to ephemeral rivers, and to include standards on permitted takes for domestic needs that require:
- A restriction on the maximum number of takes in water resource units;
  - Stopping water takes at extreme low flows;
  - Each Permitted Activity take location and amount of take is reported to the Council to ensure that the Council can understand and monitor the extent of cumulative effects from permitted domestic takes.

Fish and Game are of the view that the Standard needs to apply to ephemeral rivers, and a further standard is also required in the Plan to ensure that the cumulative effects of multiple takes are addressed. Fish and Game have lodged similar submissions (509.207, 509.208, 509.212, 509.213, 509.214, 509.215 and 509.216) on Rule 2.2.2, Heading 2.3.2, Heading 2.3.4, Rule 2.2.5, Heading 2.3.5, Rule 2.2.6, Heading 2.3.6.



955. As discussed elsewhere, it would appear that the submitters desire to include ephemeral rivers relates to its misunderstanding of what the feature is in the MEP. An ephemeral river is in essence a dry gully that has flow only after a significant rainfall event, which may not even occur in some years. Even if someone was to be taking their domestic water from it (which seems highly unlikely), it would not be possible to determine what 5% of the river flow was to ensure compliance with the Standard as almost all of the time the flow would be zero.
956. For a submission that seeks such significant changes to the provisions, I find the justification and supporting information to be quite lacking. How would the number of take in each FMU be restricted – limit subdivision? Limit to a percentage of flow divided by 5m<sup>3</sup> per day? Limit based on the number of land parcels? Would it be within a reach of river or a whole river, or a whole FMU?
957. The second bullet point is unnecessary as s329 of the Act already provides the Council with the ability to restrict water takes any time there is a serious temporary shortage of water, and the MEP makes reference to using this option when necessary.
958. Finally, to require every Permitted Activity take to record water taken and report that data to the Council to monitor the extent of cumulative effects, would in effect be requiring universal metering on every single water take for any purpose. This is not a new idea, and the submitter may provide information in evidence to back up this proposition, however the cost to Permitted Activity water users in the region would be significant, not to mention the additional compliance costs for the Council. Its quite possible that many Permitted Activity takes would not even exceed the margin of error for water metering.
959. The matters raised in the submission, in my view, have not been robustly enough considered by the submitter and, as sought, raise many questions, or in some cases are inappropriate or unnecessary relief. I also note that there is no discussion in the submission about the adverse effects Permitted Activities have had in the past on the recreational fishing values the submitter is tasked with protecting. This particular Permitted Activity is a reduced volume per dwelling (by half or more in most cases), therefore if there have been any impacts on trout and salmon habitat in the past, that would potentially decrease significantly under the MEP.
960. The Port Underwood Association submission (1042.012) seeks that Standard 2.3.1.2 is amended to add the sentence – ***“Where a number of properties have a common legal easement to a water take point the taking of water for reasonable domestic use shall be permitted.”*** The submitter is of the view that the easement for the water take point would have been approved by the Council under the original plan of subdivision and therefore permitted.
961. This Standard is not on this Rule for legal reasons, it is to ensure there are not likely to be adverse effects from the activity. Multiple takes from a single take point have the potential to impact on the ability of others to take water for their needs, and it is appropriate that is considered through a resource consent process. I support retention of the Standard as notified.

### ***Recommendation***

962. It is recommended that Rule 2.2.1, and the associated Heading 2.3.1, and Standards 2.3.1.2 and 2.3.1.3 are retained as notified.

### **Rule 2.2.2**

963. Rule 2.2.2 (and associated Heading 2.3.2 and Standard 2.3.2.1) reads as follows –

*“Take and use of water for domestic needs for a papakāinga unit up to 5m<sup>3</sup> per day.  
2.3.2.1. Papakāinga units must be lawfully established.....”*

964. The submissions on Rule 2.2.2 and Heading 2.3.2 have the same content as submissions from the same parties on Rule 2.2.1 and associated provisions, therefore assessments have not been repeated and readers should refer back to the section above under the heading “Rule 2.2.1”.
965. The Te Ātiawa submission (1186.104) seeks removal of this Standard as in their view, given the historical tensions between the Crown and iwi, papakāinga may have been constructed out of necessity a considerable time ago and the process of establishing existing use rights adds necessary (assume this is meant to say unnecessary) complication to the caring of iwi people in need.
966. When establishing a Permitted Activity there have to be limits and assurances in place as by, putting these in the MEP, it means the Council is comfortable that there will be no, or are likely to be no, adverse effects from the activity. The purpose of this Standard was to ensure that this permission was limited in its application to the types of settlements intended. I am not convinced by the submission that this would be a particularly difficult Standard to comply with, however I acknowledge that I am not particularly au fait with papakāinga settlements in Marlborough. It may be that the submitter can provide additional information and context in evidence.

### **Recommendation**

967. It is recommended that Rule 2.2.2, and the associated Heading 2.3.2, and Standard 2.3.2.1 are retained as notified.

### **Rule 2.2.4**

968. Rule 2.2.4 (and associated Heading 2.3.4) reads as follows –

*“Take and use of water for the reasonable drinking water needs of an individual’s animals.”*

969. There are four submissions<sup>58</sup> that support Rule 2.2.4 (Heading 2.3.4) and seek its retention as notified. On the basis that I have recommended an amendment to the Rule and Heading as a consequence of another submission, the recommendation for these four submissions in Appendix 1 are recorded as accepted in part.
970. The Fonterra submissions (1251.057 and 1251.058) seek the replacement of “*an individual’s*” in the Rule and Heading with “*a person’s*”, as this reflects the wording of the RMA post the Resource Legislation Amendment Act 2017. I agree with the relief sought, and this is reflected in the Recommendation section below.
971. The Fish and Game submissions (509.211 and 509.212) seek the amendment of the Rule and Heading to include a maximum volume limit of 30m<sup>3</sup>. The submitter is of the view that this will ensure that there is a measurable limit on what is considered reasonable.
972. The submitter has provided no evidence to support its claim that 30m<sup>3</sup> is reasonable. The WARMP uses volumetric limits for animal drinking water and, in my experience, I observed that provision to be widely abused. There was an assumption that the volumetric limit was sustainable so people took the view that was an entitlement, that whether all they had was a few farmyard animals, a dog or some chickens, that was an amount of water available to them. The decision was made in drafting the MEP to very deliberately not put a volumetric limit on this activity to limit the potential abuse of the provision, but also so that if there was concern raised about a take for this purpose then the onus is on the water user to demonstrate it was reasonable for the animal’s they were responsible for. In my view, the

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<sup>58</sup> 548.093 and 548.106 (AWUG), 424.136 (M and K Gerard) and 998.041 (NZ Pork)

relief sought has the potential for a greater volume of water to be removed from the resource than under the notified provision.

### **Recommendation**

973. It is recommended that Rule 2.2.4 and Heading 2.3.4 are amended as follows –

*“Take and use of water for the reasonable drinking water needs of ~~an individual’s~~ a person’s animals.”*

### **Rule 2.2.5**

974. Rule 2.2.5 (and associated Heading 2.3.5) reads as follows –

*“Take and use of water for incidental use associated with farming up to 5m<sup>3</sup> per day per Computer Register.”*

975. There are 19 submissions<sup>59</sup> that support Rule 2.2.5 (Heading 2.3.5) and seek its retention as notified.

976. The Federated Farmers submission (425.441) seeks to increase the volume in the Rule from 5m<sup>3</sup>/day to 10m<sup>3</sup>/day, or delete the Rule as a result of its submission of new proposed rule in separate submission (assume referencing point 425.437 on Heading 2.2). The submitter is of the view that, while supporting the provision for the take and use of water for incidental use associated with farming, it submits that 10m<sup>3</sup>/day would be a more appropriate amount for groundwater permits and that the rate/volume of water taken from a surface waterway should be proportioned to the size of the waterway from which the waterway is being taken from.

977. Through the development of these provisions it was considered that the level of enablement for farmers to abstract water for incidental at 5m<sup>3</sup>/day would have, or would not be likely to have, adverse effects. The submitter has not provided any information to demonstrate that the same can be said for 10m<sup>3</sup>/day. It should be noted that this is a new permission that does not exist under the current operative Plans, therefore is currently an activity requiring resource consent.

978. The NZ Pork submission (998.042) seeks to increase the volume in the Rule from 5m<sup>3</sup>/day to 15m<sup>3</sup>/day. The submitter is of the view that, while supporting the provision for the take and use of water for incidental use associated with farming, it submits that the limit should be the same as the allocation of 15m<sup>3</sup> per day for dairy shed wash water set out in Rule 2.2.6. The submitter states that a typical intensive pig farming activity would require in the order of 10-15m<sup>3</sup> per day for wash water. It is not equitable to specifically allocate water to one animal over another when both are legitimate rural production activities with wash water requirements for animal welfare.

979. I do not agree with the submitter’s relief sought on this Rule as the number of dairy farmers that would be utilising Rule 2.2.6, relative to the number of farmers that could be utilising Rule 2.2.5 is substantially different. The effects of all farmers being able to take 15m<sup>3</sup>/day rather than 5m<sup>3</sup>/day is likely to have adverse effects on water resources. Having said that, had the submitter lodged its submission on Rule 2.2.6 seeking that the Rule apply to dairy and pig shed wash down water, that may have been a matter worth considering. If the submitter provides further information on the activity, and wishes to make arguments to the Panel regarding scope, the matter in relation to that provision could be reconsidered if requested.

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<sup>59</sup> 548.094 and 548.107 (AWUG), 457.049 and 457.050 (Accolade), 462.011 and 462.012 (BRIL), 473.035 and 473.036 (Delegat Limited), 484.053 and 484.054 (Clintondale), 776.029 and 776.030 (Indevin Estates Limited), 909.040 and 909.041 (Longfield Farm Limited), 1218.040 and 1218.041 (Villa Maria), 424.137 (M and K Gerard), and 431.049 and 431.050 (Wine Marlborough)

980. The Horticulture NZ submissions (769.076 and 769.079) seek to amend the Rule by replacing “farming” with “production land activities”. It also seeks the addition of “or CT” after “Computer Register”. The submitter states that the definition of farming does not include all primary production activities, and so the Rule is limited. Production land is defined in the RMA so the rule should apply to all such production land activities. The addition of “or CT” is sought to provide for the circumstances where a Computer Register has not been created for a property.
981. In my view, the Rule deliberately enables this take for farming, and the submitter does not provide any justification for extending it beyond that. On the face of it the only primary production activity that appears to be referenced in the definition of “production land activities” in the RMA but not covered by the definition of “farming” in the MEP is forestry, which is assumed to be beyond the submitter’s area of interest and has not been raised as a concern by the forestry industry. If there is some other specific limitation that the submitter is alluding to it would be useful if it provided examples at the hearing.
982. It is my understanding that, post-notification of the MEP, a new Land Transfer Act 2017 has been enacted, which has an impact on the terminology used in the MEP in relation to the term “computer register”. This is going to be dealt with separately outside of this hearing topic, so as to get a consistent outcome across the MEP.

### **Recommendation**

983. It is recommended that Rule 2.2.5, and the associated Heading 2.3.5 are retained as notified.

### **Rule 2.2.6**

984. Rule 2.2.6 (and associated Heading 2.3.6) reads as follows –

*“Take and use of water for dairy shed wash down up to 15m<sup>3</sup> per day per dairy shed.”*

985. There is one submission<sup>60</sup> that support Rule 2.2.6 (Heading 2.3.6) and seek its retention as notified.
986. The Hall Family Farms Limited submission (141.014) seeks that this Rule be amended to be a volume based on the number of cows being milked per property, and the J and P Harvey submission (430.001) seeks that the 15m<sup>3</sup>/day be increased to 25m<sup>3</sup>/day. The submitters are of the view that 15m<sup>3</sup>/day is not enough for most/average farms, especially larger dairy farms.
987. The volume of water permitted under this Rule was never intended to enable all dairy farms to take and use water for shed wash down as a Permitted Activity. Under the operative planning documents this activity requires a resource consent, however in the review of the Plans it was determined that a low level of Permitted Activity for dairy wash down is sustainable and would at least mean that some farms did not have to get a resource consent (and we were advised this was the case). The submitters have not provided any information to demonstrate that a higher volume of water for this activity would not, or would not be likely to, have an adverse effect on the environment. Should it transpire that 15m<sup>3</sup>/day is effectively insufficient for *all* dairy farms, and therefore the Rule would not ever be utilised, then in my view, it may as well be removed from the MEP and the activity continue to be a Discretionary Activity as per the existing Plans.
988. The S Parkes submission (339.024) seeks that this Rule be combine with the Permitted Activity rules for domestic and stock water, and that the volume for dairy wash water be increased to more than 15 cubic metres per day. The submitter is of the view that many farms have one water supply for their cowshed and stock water and even the house so how

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<sup>60</sup> 1124.057 (S MacKenzie)

can this be differentiated. And, 15m<sup>3</sup>/day is not a large amount of water for a dairy shed - does this include water for cooling the milk?

989. With regards to combining the rules due to farmers taking water for domestic, stick and dairy wash down from the same intake, this is unnecessary as there is no requirement to meter use so there is not an onus on farmers to differentiate between the uses. The matter of increasing the volume has already been covered above, and is not supported for the same reasons.
990. The Rule was not written with dairy cool down water in mind, however if that activity combined with the wash down did not exceed 15m<sup>3</sup>/day, then I do not see a problem with it. However, I have no knowledge of the volumes of water required for dairy milk cool down, therefore I am unable to assess at this stage whether it should be incorporated into the Rule (or not. Subject to further information being provided at the hearing, I do not recommend any changes to the provisions as a result of this submission at this time.
991. The Bown Partnership submission (451.001) seeks an extension of the Rule to include taking water for milk cooling down purposes, as in its view it is not provided for in the existing provisions.
992. This submission may be of assistance relative to the submission of S Parkes as it suggests that this activity could be conducted within the 15m<sup>3</sup>/day permitted volume in the Rule. If this is the case, then as suggested earlier it is likely that I would support this amendment. Given that it would be useful to have further discussion on the matter, I have not made a recommendation on this particular submission at this time.
993. The Fonterra submissions (1251.059 and 1251.060) seek the following amended provisions –
- “Provide for dairy shed wash takes above 15m<sup>3</sup> as follows -*
- (a) If the take existed before notification of the MEP and the source is not over-allocated then the take should be permitted;*
- (b) If the take existed before notification of the MEP and the source is over-allocated then the take should be a controlled activity.”*
994. The submitter advises that, while it supports the intent of this Rule, it is concerned that there are existing dairy shed wash takes that are taking volumes above 15m<sup>3</sup> per day, and provided these takes are not from an over-allocated source, then it considers these takes should also be permitted. If existing larger takes are from sources that are over-allocated then Fonterra considers that the replacement of these previously lawful takes should be a Controlled Activity. The Dairy NZ submission (676.080) is similar in relief sought, however seeks a Restricted Discretionary status where Fonterra seeks a Controlled Activity.
995. The matter of dairy shed takes above 15m<sup>3</sup> per day has already been discussed, and this submission does not offer any additional information to demonstrate that a higher volume of water would not, or would not be likely to, have an adverse effect on the environment. It is not clear, but it appears that the submitter may be under that misunderstanding that takes above 15m<sup>3</sup> per day that will require consent under the MEP, are Permitted Activities under the existing planning documents, this is not the case. Under the operative Plans these takes, including those under 15m<sup>3</sup> per day, require consent. Any current consent holder, regardless of whether they are in an over-allocated FMU or not, is able to apply for a replacement consent for the same activity.
996. The Federated Farmers submission (425.442) seeks a new Controlled Activity rule, while not explicitly a submission on Rule 2.2.6, in my view, that is a logical place to consider this point. The details of the Rule it seeks is as follows –

*"The taking and use of more than 15m<sup>3</sup>/day for dairy shed wash down water where the dairy shed existed before 9th June 2016.*

*Matters of control*

*(a) the dairy shed was lawfully established before [date of notification] and the applicant is able to provide proof of this.*

*(b) The water being taken and used within the dairy shed is reasonable and efficient use of water.*

*Note: Proof the dairy shed being lawfully established before 9th June 2016 can be done by way of providing the following. It should be noted that these are not the only way that the dairy shed can be proven to be lawfully established before 9th June 2016:*

*(a) building permit code of compliance; or*

*(b) a resource consent for a dairy shed effluent disposal."*

997. The submitter states that it understands that under the existing Plan many dairy shed wash down activities may have required consent to enable them to be established, however they understand that this provision has never been enforced. Further, while the Federation acknowledges that there is a reasonable expectation placed upon farmers to comply with the rules of a Plan, there is also a reasonable expectation that Council will enforce their own rules. We understand that it has become 'wide spread practice' not to require dairy farmers gain the necessary water permits for their dairy shed wash down water. This now has lead to an unfortunate situation where farmers have established a business, which is now under threat, especially within catchments which the council deems to be 'over allocated'. In the view of the Federation, this situation could have been avoided by the Council actively enforcing their own rules. The submitter seeks that the Plan provide the ability for dairy farms which existed at the time of notification of the plan, where their dairy shed wash down water exceeds 15m<sup>3</sup>/day to gain the necessary resource consents. We believe that this can easily be achieved by having a specific allocation for these consents within the various catchments or as we suggest by having a new Controlled Activity where the applicant must provide proof that the dairy shed (dairy farming operation) existed before the date of this plan being notified and that the amount of water being applied for is reasonable and efficient use within the dairy shed.
998. This submission is wrong on many counts. Water permits have been issued for many years for dairy wash down water, it has always required a resource consent and if a farmer did not get one, it is not the Council's responsibility, or the role of the MEP, to fix some perceived problem. Regardless of whether the activity was lawfully established, if the take is over 15m<sup>3</sup>/day it may have an effect on the environment and that warrants its consideration through a resource consent process. There is no information in the submission to counter this. In the two and half years since the MEP was notified (and therefore the submitter was able to ensure its members had the correct consents), Council staff are not aware of any water permits for dairy shed wash down water being refused. On this basis it would be assumed that all water taken and used of this nature is lawful and, even if there had been the issue the submitter has alluded to, it would by now be resolved.
999. The S and S White submission (93.001) seeks amendment of the Rule to change the limit to 3 litres of water per litre of milk, and to have litres of water per hectare and not per farm. Also, the request that it they are required to have a resource consent for dairy shed wash water that it does not get the same cut off restrictions as irrigation resource consents. The submitter states that for every one litre of milk it requires three litres of water to cool it before it goes into the vat and at the cut-off point of 15m<sup>3</sup> the MEP is discriminating against large herd owners. At 19,000 litres of milk per day in the peak, for our dairy farm operation, 15m<sup>3</sup> is far too small amount allocated. Further, resource consent for dairy shed water should not have the same restrictions as the irrigation consents as, for animal health reasons, a cow needs to be milked or she will get mastitis, and if the milk cannot be cooled then it will go

down the drain - which is not economically viable. The S Tripe submission (131.001) seeks similar relief.

1000. The issue of the volume permitted, and the potential extension of the Rule to include cooling water have been discussed above. There is no information in the submission to alter the previous assessments, except to say this submission indicates the volume of water required for milk cool down may not warrant its addition to the Rule as it going to require a resource consent. With regards to restrictions on a water permit not applying to dairy shed water, this would appear to be a very reasonable argument that an applicant could make in their resource consent application, but in my view, it should be assessed on a case-by-case basis and not be enshrined in Policy.

### **Recommendation**

1001. It is recommended that Rule 2.2.6, and the associated Heading 2.3.6 are retained as notified.

### **Rule 2.2.7**

1002. Rule 2.2.7 (and associated Heading 2.3.7) reads as follows –

*“Take and use of water from the Wairau Aquifer Freshwater Management Unit up to 15m<sup>3</sup> per day for any purpose until 9 June 2017.”*

1003. The Fish and Game submissions (509.217 and 509.218) seek the removal of this Rule so all further takes from the Wairau Aquifer FMU are subject to resource consent as it is of the view that new permitted water takes have the potential to lead to lower flows within the Wairau Aquifer for longer periods of time, flat-lining the flow and causing further adverse effects on the salmonid fishery.

1004. These submissions are somewhat redundant now as the Rule has in essence expired and people would now require a resource consent (until Prohibited Activity Rule 2.6.1 becomes operative, assuming it does). For the record, this Rule did not permit “new” Permitted Activity water takes but the continuation of an existing Permitted Activity under the WARMP for 12 months to enable resource users time to gain consent to continue their activity.

1005. The Horticulture NZ submission (769.077) seeks the removal of the date limitation on this Rule as it is not clear why the date of 9 June 2017 has been specified.

1006. As discussed above this Rule permitted the continuation of an existing Permitted Activity under the WARMP for 12 months to enable resource users time to gain consent to continue their activity. It is no longer appropriate to have the Permitted Activity Rule permanently in the Plan as the resource is over-allocated. The alternative was to not put the 12-month Permitted Activity in the Plan, in which case water users would have had to cease their activity immediately (on 9 June 2016) while gaining a water permit.

1007. The Federated Farmers submission (425.443) seeks the removal of the date limitation on this Rule and replace it with “one year after the Plan becomes operative”. The submitter supports the allowance of a transition time for those who have been taking water as a Permitted Activity from the Wairau Aquifer, however it submits that a longer transition time would be more appropriate. The date of notification means that resource users would not have had advance warning. Further the submitter notes that it expects that the Council will notify affected people that this specific rule applies to them.

1008. The timeframe to apply here was carefully considered and 12 months was considered a sufficient time period for consent to be sought, particularly given the overallocated nature of the resource. As the Rule only enabled the takes that were already existing at the time of notification, why would people need years to seek a resource consent. The time they are going to find out about the change in provisions is at the time of notification. I

am not clear what the submitters expectations are around the Council notifying affected parties, unless it is the landowner contact on notification, as this provision relates to a Permitted Activity for which we would likely hold no information.

### **Recommendation**

1009. It is recommended that Rule 2.2.7, and the associated Heading 2.3.7 are retained as notified.

#### **Rule 2.2.8**

1010. Rule 2.2.8 reads as follows –

*“Take and use of water for fire-fighting purposes.”*

1011. There are two submissions<sup>61</sup> that support Rule 2.2.8 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these two submissions in Appendix 1 are recorded as accepted in part.

1012. The Fish and Game submission (509.219) seeks retention of the Rule with amendments to add standards requiring the use of stored water before water is taken and used directly from waterbodies and other standards that ensure the ecological health of fresh waterbodies.

1013. This Rule is intended to reflect the Act, which in the case of water taken for fire-fighting, does not have the provisos of s14(3)(b) that the activity does not, or is not likely to, have an adverse effect on the environment. Therefore, I am reluctant to support the relief sought. I also find the submission to be lacking in detail regarding the specific standard sought to be added to the Rule.

1014. The DOC submission (479.151) seeks amendment of the Rule to add that that take and use of water can also be for the purpose of spraying for weed and pest control. The submitter is of the view that the taking of water for mixing sprays for weed control operations should be added to this Permitted Activity rule, as the taking water in a number of natural state waterbodies is otherwise Prohibited under Rule 2.6.4, activities requiring small quantities of water, including wilding conifer control would benefit from being allowed for in this Permitted Activity Rule.

1015. I am quite confused about why the submitter is seeking to amend this particular Rule in this way, the activity they are describing appears to have nothing directly to do with taking water for fire-fighting, which is the intent of the Rule. If a permission, such as described, was to be added to the MEP, then in my view, it should be a separate rule and would likely have appropriate standards. It seems to be implied that perhaps the submitter wants to add its activity to this Rule as somehow that will mean Prohibited Activity Rule 2.6.4 would not apply to its take and use of water, if this is the case, I do not understand how it reached this conclusion. FENZ has sought an exemption from Rule 2.6.4 for fire-fighting, which I have recommended is accepted, however even if Rule 2.6.4 is amended that would not provide an exemption for DOC's take and use of water for weed control purposes should that be added to Rule 2.2.8.

1016. The FENZ submission (993.018) seeks amendment of the Rule as follows –

***“Take, ~~and~~ use and damming of water for fire-fighting purposes and firefighting training (when undertaken by the New Zealand Fire Service or any other nationally recognised agency authorised to undertake firefighting activities).”***

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<sup>61</sup> 509.222 and 509.223 (Fish and Game), 548.097 (AWUG) and 778.090 (Irrigation NZ)



1017. The submitter generally supports Rule 2.2.8 to the extent that it provides for the taking and use of water for firefighting purposes in a manner that is consistent with s14(3)(e) of the RMA. However, FENZ considers that the Rule may not enable the taking and use of water for firefighting training, and therefore a limited amendment to the Rule is sought to confirm that the New Zealand Fire Service is also able to take and use water for such purposes. It is considered that the taking of water for firefighting training from a stream or river is essential to the Commission meeting its statutory obligations by ensuring that firefighters know how to take surface water in emergency situations. As such, the amendments proposed to Rule 2.2.8 reflect the priority given to water for firefighting in the RMA and better achieve the purpose of the RMA by clearly providing for the health and safety of people and communities.

1018. I support the relief sought to the extent that it seeks to add training to the Rule, my preference would be to limit it to water being taken in response to an emergency, however I accept that s14(3)(e) includes the take and use of water for training purposes. I do not support that part of the submission seeking to add damming to the Rule, damming is not provided for in s14(3)(e), and the submitter has not justified this addition in any way in its submission. With regards to the additional text in brackets, it limits who can take water however it does appear to reflect the RMA. I am not familiar with the Fire and Emergency New Zealand Act 2017 or FENZ, so I am only assuming the referencing as to who can conduct the activity, as added to the Rule, is appropriate. The recommended changes to the Rule are in the Recommended section below.

### **Recommendation**

1019. It is recommended that Rule 2.2.8 is amended as follows –

1020. ***“Take and use water for fire-fighting purposes and firefighting training (when undertaken by the New Zealand Fire Service or any other nationally recognised agency authorised to undertake firefighting activities).”***

### **Standard 2.3.8.6**

1021. Standard 2.3.8.6 (associated with Rule 2.2.9) is a standard on a Permitted Activity rule, which received no submissions itself, and read as follows (Rule 2.2.9 text provided for context) –

*“Take of water for the purposes of calibrating a water meter.....*

*2.3.8.6. The calibration must be carried out by a recognised professional and full test results must be supplied to the Council within 10 working days.”*

1022. The Fish and Game submission (509.221 lodged against Heading 2.3.8) seeks the amendment of Standard 2.3.8.6 to refer to the relevant professional standards for calibration.

1023. I appreciate that this has been an issue raised in other hearings, and I understand the desire for certainty, however historically there have been issues with changes over time with different certifications, industry professional groups and qualifications, and so on. A position was taken in drafting the MEP to not name specific entities or label roles in detail to try and maintain the relevance of these references in the Plan. I am not opposed to an alternative approach but the submitter has not really offered one in any detail, and I consider this to be a wider whole-of-Plan issue for the Panels consideration. There is also a potential issue around referencing external documents that may need to be considered.

### **Recommendation**

1024. It is recommended that Standard 2.3.8.6 is retained as notified.

## Rule 2.2.10

1025. Rule 2.2.10 (and associated Heading 2.3.9 and Standard 2.3.9.2) reads as follows –

*“Take of water for the purposes of completing a bore test required to determine the yield of a bore and interference effects on other users.....*

*2.3.9.2. The total take must not occur for greater than 120 hours within any 30 day period.....”*

1026. There are four submissions<sup>62</sup> that support Rule 2.2.10 (Heading 2.3.9) and seek its retention as notified. On the basis that I have recommended an amendment to the Rule and Heading as a consequence of another submission, the recommendation for these four submissions in Appendix 1 are recorded as accepted in part.

1027. The NZDF submissions (992.041 and 992.042) seek to amend the timeframe from “~~120 hours~~ within any 30 day period” to “**14 days** within any **90 day** period”, and to insert a new Permitted Activity rule to provide for the taking of water for well development purposes, including surging and removal of fine material from the well. For the new Permitted Activity, two standards are sought, “(a) *The instantaneous rate of the take must not exceed 100 l/s;*” and “(b) *The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland*”. The submitters are of the view that the duration proposed in the Rule is not sufficient to test for effects, and up to 14 days may be required for some full scale tests e.g. for large water supplies and/or to assess leakage effects between aquifers. Also, the MEP does not appear to provide for both the take and discharge of water as part of well development, or extended pump testing activities, as a Permitted Activity.

1028. The submissions have been considered by Peter Davidson, and the following is his advice –

- Aquifer tests rarely go for more than 7 days continuously with the normal duration being 1 to 3 days.
- For the small number of tests of longer duration Peter suggests that a resource consent be required so the effects can be assessed in relation to the aquifer or on neighbouring wells.
- Ideally tests are carried out under dry conditions to assess well performance and some controls are needed especially in small riparian aquifers.

1029. The notified provision allows for 120 hours (5 days) and the submitter has sought 14 days, however based on the advice of Mr Davidson it would be appropriate for tests of longer duration that 7 days to go through a resource consent process. To leave the provision as is, except for increasing the days to 7, would be more enabling than changing 30 days to 90 days, so it recommended that does not change. The recommended change to Standard 2.3.9.2 is detailed below in the Recommended section.

1030. I am not clear enough about the new Permitted Activity to support its addition at this stage, as I do not have sufficient understanding of why the permission is required, i.e. why the activity is not covered by Rule 2.2.10. I wonder if perhaps it is because the Rule specifies that the test is for the determination of bore yield and interference effect, and well development is a different activity? If this is the case then perhaps all that is needed is some wording changes to the Rule. With regards to the “discharge”, this is not required for the bore test as it is not considered a discharge when the water pumped from the bore is put onto land, much the same way an abstraction for irrigation is not considered a discharge when the water is applied to crops. It may be that the “discharge” of water as part of well

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<sup>62</sup> 548.095 (AWUG) and 424.138 (M and K Gerard)

development is not the same thing, hopefully the submitter will clarify this, and the new rule sought, in evidence.

1031. The Fish and Game submissions (509.222 and 509.223) seek to amend the Standards to ensure that bore testing is not carried out more than once every calendar year. The submission does not contain any further information or any rationale for the relief sought, and does not identify what issues of concern are sought to be resolved with the relief requested. At this stage I am not able to support the relief sought.

1032. Fish and Game seek that Standard 2.3.9.2 to ensure that bore testing only occurs once every calendar year.

### **Recommendation**

1033. It is recommended that Rule 2.2.10, and the associated Heading 2.3.9, are retained as notified.

1034. It is recommended that Standard 2.3.9.2 is amended as follows –

*“The total take must not occur for greater than ~~120~~ 168 hours within any 30 day period.....”*

### **Rule 2.2.11**

1035. Rule 2.2.11 (and associated Heading 2.3.10 and Standard 2.3.10.4) reads as follows –

*“Take and use of water for road or river control construction works up to 50m<sup>3</sup> per day per construction site.....”*

*2.3.10.4. Road or river control construction works must be undertaken by, or on behalf of, the Marlborough District Council or the road controlling authority.”*

1036. There are two submissions<sup>63</sup> that support Rule 2.2.11 (Heading 2.3.10) and seek its retention as notified. On the basis that I have recommended an amendment to the Rule and Heading as a consequence of another submission, the recommendation for these two submissions in Appendix 1 are recorded as accepted in part.

1037. The KiwiRail submissions (873.079 and 873.084) seek the addition of “rail” to the Rule as it is of the view that the water take in relation to road works is anticipated to be for dust management or minor uses associated with construction. These requirements can also arise in relation to rail construction works. KiwiRail therefore seek that in the event that rail construction works are undertaken, an allowance for a water take as a Permitted Activity is provided for.

1038. In my view, the requested relief is entirely appropriate and in keeping with other provisions in the MEP. I do note that as a consequential change Standard 2.3.10.4 should have a reference to rail and the rail network operator added. I anticipate KiwiRail correcting my recommendation if “rail network operator” is not the most appropriate term to use.

1039. The NZTA submission (1002.111) seeks the following amendment to the Rule and Standard –

*“Take and use of water for road or river control construction, **maintenance, repair or upgrade** works up to 50m<sup>3</sup> per day per construction site.”*

*“2.3.10.4. Road or river control construction, **maintenance, repair or upgrade** works must be undertaken by, or on behalf of, the Marlborough District Council or the road controlling authority.”*

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<sup>63</sup> 548.098 and 548.109 (AWUG)

1040. The submitter is over the view that the limit of 50m<sup>3</sup> per day per construction site is likely to be insufficient for the its purposes in relation to road network maintenance, upgrade or construction projects. The submitter requires water for a number of aspects of road construction, including dust suppression during excavation and road sealing works. Given that 'construction site' is not defined, a section of road being constructed or maintained across a considerable distance may be captured, and 50m<sup>3</sup> per day is highly restrictive. NZTA submits that it is not necessary to set a maximum daily take volume to maintain river health and the availability of water for other users, given standard 2.3.10.1 restricts the take rate based on river flow. In addition, 'road construction works' is not defined in the MEP, so it is not clear whether it would cover maintenance, repair and upgrade works as well as the construction of new roads.
1041. This Rule is not limited to the abstraction of surface water, however possibly if it was the take volume could be increase, however it would not be acceptable to be unlimited. The intent of this Rule is not to provide sufficient water for all of the submitter's activities, like all Permitted Activities, it is to provide some level of enablement where there will not be, or are unlikely to be, any adverse effects. In many respects whether or not 'road construction works' cover maintenance, repair and upgrade works is somewhat irrelevant if the limits are not exceeded but a definition could be considered if need be. And while 'construction site' may not be defined, 'site' is, however this is also something that could be considered further if the submitter seeks to have very specific perimeters put around their activities.
1042. I note that a consequence of the relief sought, the Council would also be able to take and use unlimited volumes of water for river control, and based on relief sought elsewhere, KiwiRail potentially could do the same for rail. Neither MDC or KiwiRail have sought any amendment to the volume of permitted take under this Rule.
1043. The Simcox Construction Limited submission (1151.009) seeks an increase of the permitted volume from 50m<sup>3</sup> per day to 200m<sup>3</sup> per day as each water tanker takes 10m<sup>3</sup>, so 50m<sup>3</sup> is insufficient to provide for proper dust suppression and this should be increased to 200m<sup>3</sup> per day.
1044. Again, the focus of the submission is on what the submitter wants without any consideration of adverse effects on the environment. I am not comfortable with supporting the relief sought in the absence of any information to demonstrate the activity will have no, or little, adverse effect.
1045. The NZTA and Simcox Construction Limited submissions were considered by Peter Davidson and Val Wadsworth and the following is there advice –
- A daily permitted volume of 200m<sup>3</sup>/day is a very large volume of water in the context of many water resources in Marlborough and especially compared to the Permitted Activity volume in the MEP for individual property owners of 10m<sup>3</sup>/day.
  - To put this volume in context there are many current water permits that are significantly smaller in size.
  - Peter considers this to be excessively high and would cause problems in some water resources under some certain seasonal conditions.
  - Val notes that if the Rule was limited to surface water, and there was reliance on the 5% Standard for environmental protection, the daily limit could increase.
1046. Based on the content of the submissions, and the advice of Messrs Davidson and Wadsworth, I have not recommended any changes as a result of the NZTA and Simcox Construction Limited submissions. It is noted that there are potentially options for considering water differently from different types of water resources, however this would need to be explored further.

1047. The Fish and Game submissions (509.224 and 509.225) oppose the Permitted Activity and seek that a Discretionary Activity resource consent be required to ensure that the activity complies with the relevant allocation limits and minimum flows, and to prioritise the use of stored water first. The submitter is of the view this is necessary to ensure that the adverse effects of the activity can be avoided, remedied or mitigated as appropriate.

1048. In the development of the MEP provisions it was considered that this volume of abstraction for this activity was at a level where the environment would not be adversely affected through activities of this nature. I appreciate that the submitter's view is different, however the submission does not persuade me that there is no level of take that would be appropriate. I am not quite sure what to make of the submitter seeking that stored water be used as a priority, as I do not imagine any of the entities authorised to act under this Rule have storage dams established and available to them for this purpose.

### **Recommendation**

1049. It is recommended that Rule 2.2.11 and Heading 2.3.10 are amended as follows –

*“Take and use of water for road, **rail** or river control construction works up to 50m<sup>3</sup> per day per construction site.”*

1050. It is recommended that Standard 2.3.10.4 is amended as follows (consequential change) –

*“Road, **rail** or river control construction works must be undertaken by, or on behalf of, the Marlborough District Council, **the rail network operator** or the road controlling authority.”*

### **Rule 2.2.12**

1051. Rule 2.2.12 (and associated Heading 2.3.11 and Standards 2.3.11.1 and 2.3.11.2) reads as follows –

*“Take of water for dewatering of a trench.*

*2.3.11.1. The take must not be within a Groundwater Protection Area.*

*2.3.11.2. The take must relate to a temporary trench excavated for the purposes of the installation or maintenance of infrastructure.”*

1052. There are six submissions<sup>64</sup> that support Rule 2.2.12, Heading 2.3.11 and/or Standard 2.3.11.1 and seek their retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for the five submissions on Rule 2.2.12 and Heading 2.3.11 in Appendix 1 are recorded as accepted in part.

1053. The MDC submission (91.108) seeks an amendment of the Rule as follows –

*“Take of water **by a network utility** for dewatering of a trench.”*

1054. This 2.2.12 relates to Rule 2.38.3 (trenching for cable laying) in the Network Utilities rules, the amendment sought provides clarity to Plan users that this is the intention. It is noted that further submissions in opposition to this specific amendment were received from the Oil Companies because it excludes dewatering by all other users, and NZTA because it sought that roads be specifically exempt from the Network Utilities chapter, and therefore, opposes this amendment on the basis that the rule should include works associated with regionally significant infrastructure as well as network utilities.

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<sup>64</sup> 548.099 and 548.110 (AWUG), 873.080 and 873.081 (Kiwirail), 1000.001 (North Rarangi WS) and 1198.038 (Transpower NZ Limited)

1055. This Rule was drafted as an enabling provision for a specific circumstance as it was considered that if trenching for cable laying was a Permitted Activity for network utilities, then any dewatering associated with that should also be permitted. It was not intended to be a broad enablement and the potential consequences of permitting anyone to dewater a trench for any purpose were not considered. I can potentially see merit in extending it to regionally significant infrastructure, as that would likely be consistent with the approach elsewhere in the MEP. Based somewhat on the content of other submissions lodged by the Oil Companies as well as its further submission, this provision was not intended to permit dewatering associated with underground tank installation and replacement, and I maintain my position that these activities should require a resource consent.

1056. Based on the intent of the provision, Mr Davidson's advice on other submissions on these provisions and the further submissions received, I recommend that the relief sought is accepted and that, if there is scope from a further submission (or as a consequential change of NZTA's submissions on the network utility provisions), reference is added to regionally significant infrastructure. The specific amendments are in the Recommended section below.

1057. The Oil Companies submissions (1004.025) seeks an amendment of the Rule as follows –

*“Take of water for dewatering of a trench”; or*

*“Take of water for dewatering of a **trench and/or tank pit associated with underground fuel tanks**”; or*

*By providing a definition for trench that specifically includes an excavation to enable the maintenance, replacement or installation of underground utilities, infrastructure or fuel storage tanks.*

1058. The Oil Companies submission (1004.026) seeks an amendment of the Standard 2.3.11.1 as follows –

*“The take must not be within a Groundwater Protection Area **unless the take is being carried out for maintenance or upgrading or installation of existing utilities, infrastructure or fuel storage tanks, is non-consumptive, is from an excavation not exceeding 5m in depth and will not exceed a total of 10 days.**”*

1059. The Oil Companies submission (1004.027) seeks an amendment of the Standard 2.3.11.2 as follows –

*“The take must relate to a temporary ~~trench excavated~~ **excavation** for the purposes of the installation or maintenance **or upgrade** of infrastructure.”*

1060. These amendments are sought to permit dewatering (water take) activities associated with underground tank installation and replacement at service stations, and in respect of utilities as well as infrastructure. The submission contains extensive information, much of which has already been covered elsewhere in this report, so only discussion quite specific to dewatering is referenced at this time. The submitter states that retanking, where temporary and short term dewatering is often required, usually occurs for between 5-10 days and is likely to occur only once on each Service Station in a 20 year period. The effects associated with these activities are short term, temporary and with appropriate mitigation, less than minor. The comparatively minimal water take combined with the non-consumptive water use, and the discharge, following treatment, of the water take back into the immediate environment, ensures that adverse effects on groundwater users and flows, levels or quality of surface water, are minimised. It is therefore appropriate to provide for these activities through the general rules.

1061. This submission has been considered by Peter Davidson and his advice is that he is not comfortable extending this provision beyond activities such as regional significant infrastructure, therefore he does not support dewatering in relation to fuel storage tanks. Peter notes that MDC are regulating the take of groundwater here, and it is not appropriate to widen it to include the disposal or discharge of the same water as it will normally be of lower quality, and this is the main issue as we know from experience at Springlands. If dewatering is needed, it needs to demonstrate there is no shortage of water, and water quality is a key consideration in Peter's experience.
1062. As discussed elsewhere in this report, and taking into consideration the advice of Mr Davidson, in my view, the activities described by the submitters should be considered through a resource consent process. I find it especially unpalatable that the submitters seek an exemption for their activity in a GPA, these areas have been established to protect drinking water supplies, and I do not find it to be an unreasonable proposition that the submitter should have to obtain a resource consent once every 20 years when they want to retank in a GPA. The amendments to Standard 2.3.11.2 are similar to those sought by others and will be considered below.
1063. The NZTA submission (1002.112) seeks amendment of Rule 2.2.12 and Standard 2.3.11.2 as follows –
- Rule 2.2.12 – *“Take of water **and associated diversion and discharge of that water for the purpose of dewatering a site** ~~of a trench.~~”*
- Standard 2.3.11.2 – *“The take must relate to a temporary **excavation trench** ~~trench excavated~~ for the purposes of the installation or maintenance of infrastructure **or geotechnical testing.**”*
1064. The submitter states that it may be required to dewater excavation sites during road construction and maintenance projects, and it is appropriate to have a Permitted Activity rule for dewatering associated with excavations. However, 'trench' is not defined in the MEP (nor in the RMA) and it is unclear whether the submitter's excavation activities (which are generally temporary) are covered by Rule 2.2.12 and the Standards. While NZTA's work in maintaining or constructing State Highways constitutes the 'installation or maintenance of infrastructure', there are no other rules in the MEP relating to dewatering. It would be appropriate for the rule to relate to all excavations for the purposes of the installation or maintenance of infrastructure, or geotechnical testing. This Rule only authorises the taking of groundwater, but it would be good plan making if it also related to the associated diversion and discharge of the water.
1065. This submission has been considered by Peter Davidson and he is comfortable with replacing "trench" with excavation so long as there is no opportunity for the excavation to be of any size as scale does come into it. He is also comfortable with extending the activity to include geotechnical activities where for regionally significant infrastructure. In Peter's view it would not be appropriate to widen the Rule to include the disposal or discharge of the same water as it will normally be of lower quality and this is the main issue as we know from experience at Springlands.
1066. With regards to adding the diversion and discharge, this is either unnecessary or inappropriate. There is a take of water and then a "discharge" of that water onto ground, I do not see the need to add a diversion in there. As discussed earlier in relation to bore pump tests, the "discharge" of the water from dewatering onto ground is not a discharge as its just water being released onto land. And, if somehow, there was a discharge of contaminants, then a resource consent should be required (as alluded to by Mr Davidson).
1067. In my view, there is some level of comfort in amending the provision to be more generally for temporary excavation sites then specifically trenching. This is not exactly the intent of the

Rule as it is a companion provision for Rule 2.38.3 in the Network Utility provisions, however in the context of only applying to network utilities, and perhaps regionally significant infrastructure, it may be reasonable. The concern however, as raised by Mr Davidson, is that it will lead to the dewatering of sites that are of a much larger scale than that anticipated when the Rule is limited to dewatering trench sites. At this stage I have not recommended wording changes regarding excavation versus trench, as I would like to hear evidence regarding Mr Davidson's concerns. Based on the advice of Mr Davidson, I am comfortable with the addition of geotechnical testing to Standard 2.3.11.2.

1068. The Transpower submission (1198.041) seeks amendment of Standard 2.3.11.2 as follows –

*"The take must relate to a temporary trench excavated for the purposes of the ~~installation or~~ maintenance, **upgrade or development of utilities or infrastructure.**"*

1069. The submitter seeks minor amendments of the Standard to clarify that it applies to the development and upgrading of utilities. 'Infrastructure' is not defined in the MEP, and therefore it is considered appropriate, and less ambiguous, to clearly reference utilities in the proposed Standard.

1070. This submission is not inconsistent with the MDC submission, which also seeks to clarify that the provision applies to network utilities. My preference is for the clarification to be in the Rule as sought by MDC, but it would appear this would address the submitters concerns. I see no need for the other changes sought, and I find there to be no persuasive discussion in the submission. Although the change sought was to a Standard, and I am recommending the amendment is to the Rule, I have recorded the recommendation in Appendix 1 as accepted in part.

1071. The Fish and Game submissions (509.226 and 509.227) do not seek specific relief for which an assessment or recommendation can be made, it only seeks clarification. The submitter seeks clarity over the need for specific provisions for such a Permitted Activity, particularly in relation to the provision for temporary trenches for the purpose of the installation or maintenance of infrastructure. In the submitters view, it is not clear what the Council considers to be a temporary trench, there is no definition included in the plan for this. There are also no limits included in the Plan on the size of any "temporary trench". Any definitions sought on trenching would have been considered in the network utilities hearing, which I was not involved in so I am not able to provide this information to the submitters.

### **Recommendation**

1072. It is recommended that Rule 2.2.12 and Heading 2.3.11 are amended as follows –

*"Take of water for dewatering of a trench **by a network utility or for regionally significant infrastructure.**"*

1073. It is recommended that Standard 2.3.11.2 is amended as follows –

*"The take must relate to a temporary trench excavated for the purposes of the installation or maintenance of infrastructure, **or geotechnical testing.**"*

### **Standard 2.3.13.3**

1074. Standard 2.3.13.3 (associated with Rule 2.2.14) is a standard on a Permitted Activity rule, which received no submissions itself, and reads as follows (Rule 2.2.14 text provided for context) –

*"Take and use of water for a recreational hut up to 1m<sup>3</sup> per day per hut....."*



2.3.13.3. *The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland.....”*

1075. The DOC submissions (479.152, 479.153 and 479.154) seek the amendment of Standard 2.3.13.3 as follows –

*“The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland”*

1076. The submitter states that the Standard for this activity is generally acceptable for huts maintained by DOC within the Open Space 3 Zone, particularly the quantity of water, however potentially Standard 2.3.13.4 could be a problem given the location of some huts in Natural State catchments.

1077. Peter Hamill has considered this submission and supports the submission from DOC in that there are existing huts in Water Resource Units with a Natural State water quality classification and the taking of 1m<sup>3</sup> of water a day is very small and would not have any discernible impact on the water flows within the catchment. I concur with Peter’s assessment and recommend the relief is accepted.

### **Recommendation**

1078. It is recommended that Standard 2.3.13.3 is amended as follows –

*“The take must not be from a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland.”*

### **Rule 2.2.15**

1079. Rule 2.2.15 (and associated Heading 2.3.14 and Standards 2.3.14.2, 2.3.14.3 and 2.3.14.4) reads as follows –

*“Take, use and discharge of surface water for non-consumptive use.....*

*2.3.14.2. The take and discharge must not be from or into a Water Resource Unit with a Natural State water quality classification, or a Significant Wetland.*

*2.3.14.3. The water must be returned into the same surface waterbody from which it was taken, at the same or similar rate and in the same or better quality.*

*2.3.14.4. The water taken must be discharged back into the same surface waterbody within 250m of the point of take.”*

1080. There are seven submissions<sup>65</sup> that support Rule 2.2.15 (Heading 2.3.14) and seek its retention as notified.

1081. The Fulton Hogan Limited submissions (717.064 and 717.065) and the Fonterra submissions (1251.118 and 1251.019) seek amendments to the Rule, Heading and Standards such that the activity applied to groundwater as well as surface water. Fulton Hogan Limited is of the view that the non-consumptive take, use and discharge of groundwater are negligible, and Fonterra is of a view that water discharged to land in such a manner that it drains back to groundwater creates a neutral or positive water balance. In these circumstances the quality of the water being returned will be regulated through other provisions in the Proposed Plan.

1082. These submissions have been considered by Peter Davidson, the following is his advice –

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<sup>65</sup> 548.101 and 548.112 (AWUG), 424.139 (M and K Gerard), 873.082 (KiwiRail), 1002.113 and 1002.114 (NZTA) and 778.091 (Irrigation NZ)

- Peter recommends keeping the wording of the Rule unchanged as it makes a distinction between underground and surface water that is necessary to preserve physical or chemical water quality.
- The majority of human drinking water comes from groundwater and it needs to be maintained at a higher quality than surface water.
- Conversely surface water is more at risk from new activities like heat exchangers than groundwater because of ecological sensitivity.
- The distinction between channel and aquifer water should be retained in the MEP.

1083. Fulton Hogan Limited state that the effect the take, use and discharge of groundwater are negligible, however provides no information to back that up. The description of the activity by Fonterra is inaccurate as water take under this provision has to be returned to the same waterbody (even under the submitters amendments sought) and the submitter describes taking water from a subsurface source and discharging it onto land (and apparently assuming it will naturally drain back to from where it came from). The “discharging” on to land in the manner it describes would not even need a permission as it is only water. If it is not only water then it would not be covered by this rule anyway as the water would not be being returned in the same or better quality than it was taken. I am not sure what other provisions Fonterra is referring to with in regards to water quality and this activity.

1084. Based on the content of the submissions, and the advice of Mr Davidson, it is my assessment that there should be no changes to these provisions as a consequence of these submissions.

1085. The DOC submissions (479.155 and 479.156) seek the removal of the Rule entirely, or that the Standards are amended/added to address its concerns. The submitter is of a view that a standard should require that the take and discharge occurs simultaneously to ensure that flows downstream of the intake are not reduced for a prolonged period of time, and some restriction of the take should be required to manage the reduction of flow within the up to 250 metre reach between the take and the discharge, particularly during periods of low flow, to ensure ecosystem and natural character values of the dewatered reach are maintained.

1086. This submission has been considered by Peter Hamill and Val Wadsworth and they are both of a view that Standards 2.3.14.1 (considered elsewhere in this report), 2.3.14.3 and 2.3.14.4 as notified address the submitters concerns, and neither of them see the need for any amendment to the provisions. On the basis of their advice, no changes are recommended.

1087. The Fish and Game submissions (509.230 and 509.231) oppose the Rule as notified, and it is assumed, seek its removal from the MEP. The submitter is of the view that there is a significant lack of standards to address the potential adverse environmental effects of the activity.

1088. Clearly in drafting the provisions that was not a view shared by the Plan writers and their experts, so in the absence of any details in the submission regarding the deficiencies of the Rule, I am not persuaded to recommend any changes to the provisions.

### ***Recommendation***

1089. It is recommended that Rule 2.2.15, Heading 2.3.14 and Standards 2.3.14.2, 2.3.14.3 and 2.3.14.4 are retained as notified.

### **Rule 2.2.16**

1090. Rule 2.2.16 (Heading 2.3.15) reads as follows –

*“Take and discharge of water to land for the purposes of purging water supply infrastructure or in emergency circumstances.”*

1091. There are three submissions<sup>66</sup> that support Rule 2.2.16 (Heading 2.3.15) and seek its retention as notified.
1092. The Fish and Game submissions (509.232 and 509.233) seeks the addition of standards to refine the activity and ensure the management of environmental effects and compliance with water take limits.
1093. This is a Rule enabling a very specific activity to only be conducted by the Council for two specified purposes. One of which is conducted in most circumstances to protect drinking water quality, and the other is in emergency circumstances. The nature of these activities does not warrant limits, and the submitter has not been specific about what effects or what mitigation is sought to address those effects. I am not compelled by the submission to recommend any changes to the provisions.

### **Recommendation**

1094. It is recommended that Rule 2.2.16 and Heading 2.3.15 are retained as notified.

### **Rule 2.2.17**

1095. Rule 2.2.17 (and associated Heading 2.3.16 and Standard 2.3.16.1) reads as follows –

*“Damming water and the subsequent use of that water.*

*2.3.16.1. No more than 5,000m<sup>3</sup> of water is dammed at any time.....”*

1096. There are nine submissions<sup>67</sup> that support Rule 2.2.17, Heading 2.3.16 and/or Standard 2.3.16.1 and seek their retention as notified.
1097. The DOC submissions (479.157 and 479.158) removal of the Rule as the Standards do not cover any requirement to maintain fish passage where this may be necessary, and it also does not consider the potential for the loss of significant habitats of indigenous freshwater species if they are present. These matters are both included for consideration in Policy 5.2.21 of the MEP. Given Policy 5.2.21 it is considered necessary to require Discretionary resource consent for this activity.
1098. This rule only covers the s14 aspect of damming water, rules for the s13 aspects of the activity, should it be within the bed of a lake or river, are covered elsewhere. Policy 5.2.21 applies to a resource consent for damming water, in particular the construction of new dams in the bed of a river and the consequent damming of water, therefore the Policy will be relevant to both s13 and s14 aspects of that activity. In my view, Rule 2.2.17 does not need to be amended to address the submitters concerns.
1099. The Federated Farmers submissions (425.444 and 425.445) seek that Rule 2.2.17 is replaced with two new rules. The first rule proposed is for off-stream dams with standards relating to the volume of water dammed, the depth of the water, engineering design, and it not being contaminated land. The second rule is for instream dams, including construction, with standards relating to the volume of water dammed, the depth of the water, not damming to full flow of the river, fish passage, Appendix 6 limits and not effecting other takes.
1100. The submitter supports the damming of water as a Permitted Activity, however note that the volume of water provided for under this Rule is substantially less than that anticipated by the

<sup>66</sup> 548.102 and 548.113 (AWUG) and 873.083 (KiwiRail)

<sup>67</sup> 455.030 and 455.031 (J Hickman), 456.030 and 456.031 (G Mehlhopt), 548.103 and 548.114 (AWUG), 1124.010 and 1124.051 (S MacKenzie) and 1002.115 (NZTA)

Building Act of 20,000m<sup>3</sup>. In addition, in its view it is somewhat unclear as to whether this Rule applies to the instream or out of stream damming of water, and it should be amended to align better with the damming provisions of the Building Act, and numerous other Regional Plans, which anticipates up to 20,000m<sup>3</sup> or for the amount of water dammed above ground to be less than 3m. In the submitter's view the Council should be encouraging water storage with the region as this is a legitimate way for the resource to be more efficiently and effectively utilised.

1101. The submitter has misunderstood the purpose of this provision, particularly that it is to enable a s14 activity (not a s9 or s13 activity). Almost all of the matters raised in the submission relate land use activities, either in or out of the bed of a river. The activities, i.e. the construction of any dam, are covered elsewhere in the Plan. Rule 2.2.17 is simply an enablement to dam and use 5000m<sup>3</sup> of water, in essence it is there to enable farmers to have small stock water ponds without needing to go through a resource consent process. The effect being managed in relation to this Rule is taking water, usually run-off, out of the "system" for a minor use. The submitter does take issue with the volume of water, which is the subject of one of the Standards, however they do so from a dam construction perspective so I will not address the matter here. I do not support the relief sought by the submitter.
1102. The K Loe submissions (454.047, 454.128 and 454.051), the Flaxbourne Settlers Association submissions (712.009 and 712.010) and the L Taylor submissions (896.002 and 896.005) seek the retention of the Rule with the addition of a new standard limiting the catchment in which the water is being dammed to 100 hectares, and amending Standard 2.3.16.1 to increase the volume permitted to be dammed from 5000m<sup>3</sup> to 20000m<sup>3</sup>. The H Thomson submission (115.001) and the ME Taylor Limited submission (472.021) also seek an increase in the volume that can be dammed.
1103. The submitters states that dams are an important method of providing stock with drinking water supply in the Flaxbourne area given the extreme seasonal water shortages, and they need to be encouraged and supported as an efficient means of providing stock water supply during dry times. However, because of the inherently long dry periods and the need for localised stock water we oppose the following rules which seek to limit the permitted volume of water storage adding additional costs of compliance and providing greater expense to landowners.
1104. I agree with a lot of the content of the submissions, and this Permitted Activity is encouraging and enabling farmers to store water for their animals drinking water. However, there is insufficient information in the submission to demonstrate why the volume of water stored for this purpose needs to be as high as 20000m<sup>3</sup>, particularly as many farmers have multiple small ponds at different locations on their farms rather than single large stock water dams. It is likely that anyone with a dam of that size would need a resource consent to take water to put into the dam anyway, rather than it being filled from run-off and ephemeral river flows. It is not clear from the submission why the new standard regarding catchment size is sought. I do not recommend any changes to the provisions as a consequence of these submissions.
1105. It is noted that all but one of the individual submitters (as opposed to organisational) seeking an increase in the volume to be dammed relate that back to the climatic conditions in the Flaxbourne area (or are located in that area), however there are also submitters from the same area who have sought the retention of this Rule, including the 5000m<sup>3</sup> volume limit, as notified. It would be of value to hear evidence on this matter from both perspectives.
1106. The Surveyors submission (996.019) seeks to replace the Rule 2.2.17 with the WARMP Rule 27.1.6 for the Construction of Dams and the Associated Damming of Water. The reason given is that 5,000m<sup>3</sup> is too small an amount of water, especially when it includes water below ground level.

1107. I find this submission to be quite lacking in supporting information, while the volume is one common aspect of the two rules, the submitters have sought a plethora of other standards, which they have not justified in any manner. Even the purpose the increase in volume is sought has not been discussed. The standards they have suggest mostly relate to the construction of a dam, which are s9 and/or s13 that are not covered by these Rule 2.2.17. I oppose the replacement of Rule 2.2.17 with Rule 27.1.6 from the WARMP, and even if Rule 2.2.17 did extend beyond s14 matters, Rule 27.1.6 is out-of-date and no longer fit for purpose.

1108. The Fish and Game submissions (509.234 and 509.235) an increase the volume permitted to be dammed for out of stream storage and on constructed dams, as in its view it is too small/insufficient.

1109. I do not understand the motivation for this submission so given that, and the lack of an actual volume the submitter wants to increase the dammed water to, I cannot support the relief sought.

### **Recommendation**

1110. It is recommended that Rule 2.2.17, Heading 2.3.16 and Standard 2.3.16.1, are retained as notified.

### **Policy 5.3.6**

1111. Policy 5.3.6 reads as follows –

*“Allocate water within any class on a first-in, first-served basis through the resource consent process until the allocation limit is reached for the first time.”*

1112. There are 17 submissions<sup>68</sup> that support Policy 5.3.6 and seek its retention as notified.

1113. The Ngāti Kuia submission (501.014) seeks amendment of the Policy so 20% of the total allocation of freshwater is set aside for iwi. The submitter seeks this to be in line with the national direction from the Iwi Leaders Group. Should the iwi choose not to extract that water, it would remain in the waterway to protect instream values. This enable iwi to exercise Kaitiakitanga as per Issues 3A and 3B.

1114. In Marlborough, almost all of the water resources are either fully or over-allocated, and those that are not have significant portions of them allocated. As far as I am aware, the mechanism does not currently exist for the Council to reduce all active water permits to free up 20% of each resource to be set aside for iwi. However, I assume that if it does, it would be s128 of the RMA and I am ill-equipped to provide the legal advice that I would consider necessary to determine how that would work. I am conscious that this is a matter that is being considered at a national level, and I anticipate that resolution of the issue will be by way of national direction of some kind. At this time, I do not support the amendment of this Policy as sought, particularly as I see there to be no available mechanism to implement the Policy.

1115. The Trustpower Limited submission (1201.051) seeks amendment of the Policy to remove the phrase “for the first time.” The submitter is of the view that it is not appropriate for the Policy to only apply when a catchment reaches its allocation limit for the ‘first time’ as allocating water should cease when allocation limits defined in the MEP are reached, irrespective of whether the allocation is being reach for the ‘first time’.

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<sup>68</sup> 431.008 (Wine Marlborough), 1039.029 (Pernod Ricard), 1124.036 (S MacKenzie), 457.008 (Accolade), 1218.008 (Villa Maria), 778.042 (Irrigation NZ), 631.009 (Constellation), 676.030 (Dairy NZ), 473.007 (Delegat Limited), 484.011 (Clintondale), 776.005 (Indevin Estates Limited), 909.008 (Longfield Farm Limited), 548.040 (AWUG), 962.020 (MFIA), 1242.009 (Yealands Estate Limited), 715.045 (Forest and Bird) and 1238.014 (Windermere Forests Limited)

1116. I am not sure whether the submitter has not understood the Policy, or I have not understood the submission. The allocation of water *will* always stop when the allocation limits are reached, and this Policy does not change that. This Policy means that after the allocation limit for a resource is met, if water subsequently becomes available (i.e. dropping the allocation below the limit again), then a different mechanism (see Issue 5I) other than first in, first served will be used to reallocate the available water. On the basis that I do not agree with the specific relief sought, I have not supported the submission, however as noted I am unclear as to whether I have understood the submission and this may be clarified at the hearing.
1117. The Fonterra submission (1251.014) seeks amendment of the Policy to remove the phrase “until the allocation limit is reached for the first time.” I find the submission to be a bit confusing and some slightly incorrect assumptions seem to have been made but the gist of it seems to be that the submitter does not like the alternative allocation mechanism for the reallocation of water freed up after a resource is fully allocated for the first time, therefore seeks the removal of the text that in essence correlates with that approach under Issue 5I.
1118. This Policy, along with the suite of provisions under Issue 5I, seek to address issues of equitability. As discussed later in this report, the submitters opposing the later provisions, including Fonterra, do not deny there is an issue with equitability or they acknowledge the issue exists, however for the most part they do not seek to address the issue and essentially state a preference for the existing first-in, first served approach, as Fonterra has in this submission. This does not provide me with any compelling reason to reconsider the approach taken in the MEP to water allocation.
1119. The Federated Farmers submission (425.050) seeks amendment of the Policy to remove the phrase “*within any class*”, and add the sentence “*In addition, ensure that the water to be allocated is reasonable for the intended end use*”. The submitter is of the view that allocating water on a first in, first served basis is often the desired approach because it is the easiest approach, however this Policy should be coupled with a reasonable use test to ensure that for those seeking water, the use for which it is intended is reasonable and tied to the land upon which the water is to be used.
1120. The submitter has provided no explanation for why it seeks the removal of the phrase “*within any class*”, and one cannot be implied, therefore I find no reason to support this amendment. The link in this Policy to reasonable use is, in my view, unnecessary as it is very well covered in other provisions. No water will be allocated under then MEP unless it is a reasonable volume for the intended use.
1121. The Levide Capital Limited submission (907.004) seeks that the wording of this Policy be updated such that it specifically mentions the allocation of municipal water supply to users on a first come, first serve basis, and that new policies and rules are created if required to implement this Policy.
1122. Assuming the submitter means users within a municipal supply, then what is being requested is not appropriate. Under the MEP an allocation of water is granted to the Council (Assets and Services Department) for municipal water supply purposes. How Assets and Services “allocate” that water within the supply network is not a matter for consideration, or regulation, through the MEP.
1123. As an observation I note that there are several submitters who support the retention of Policy 5.3.6 as notified, however later oppose the suite of provisions under Issue 5I, noting a preference for first in, first serve to be used in all circumstances. In part, Policy 5.3.6 is the set up for the provisions in 5I, and it says as much in the explanation to the Policy. If the provisions under Issue 5I are removed as sought, then that would not support retention of the phrase “*for the first time*” on the Policy, and the reference to using an alternative mechanism in the explanation to the Policy, also sought by the same submitters. A conflict exists in the relief sought by some submitters on Policy 5.3.6 and the relief sought by the same submitters

on the Issue 5I provisions, it is hoped that their respective positions will be clarified at the hearing, in the mean time each submission has been taken at face value.

### **Recommendation**

1124. It is recommended that Policy 5.3.6, and the associated explanation, are retained as notified.

### **Policy 5.3.7**

1125. Policy 5.3.7 reads as follows –

*“Allocate water to irrigation users on the basis of a nine in ten year water demand for the crop/pasture.”*

1126. There are 19 submissions<sup>69</sup> that support Policy 5.3.7 and seek its retention as notified.

1127. John Bright has provided information and advice that, overall, is a product of his assessment of submissions that have a connection to Irricalc. This general information and advice can be read under Policy 5.7.2 later in this report. John has also provided specific advice on submission points within this report, including relevant submissions below. John’s more general advice should be considered as part of the advice on relevant individual submission points.

1128. The Pernod Ricard submission (1039.030) seeks amendment of this Policy to read as follows – *“Allocate water to irrigation users on the basis of a nine in ten year water demand for the crop/pasture, **given an irrigation application efficiency of 80%.**”* The submitter is of a view that it would be appropriate to specify the level of efficiency on which the 9/10 years is based, and that 80% is a commonly accepted approach.

1129. John Bright has considered this submission and advises that the irrigation rules used for the IrriCalc modelling achieve an irrigation system efficiency of 80% or greater (see the section headed *“Data Needed to Use IrriCalc to Estimate Irrigation Water Use”* under Policy 5.7.2 in this report for further information). In my view, the approach sought by the submitter is already part of the allocation method, and there is no need to amend the Policy.

1130. The Horticulture NZ submission (769.021) seeks an amendment to the Policy to provide for capital rootstock to have 10/10 reliability. The submitter is of a view that there are some crops where a 9/10 year reliability will mean that there is a total crop failure and loss of capital rootstock. Horticulture NZ have lodged a similar submission (769.022) on Policy 5.3.9.

1131. This submission has been reviewed by John Bright and he advises that it is not necessary to use a 10/10 reliability for capital rootstock as the 9/10yr volumes meet a sufficiently high proportion of crop water use during the 10/10 years to prevent loss of rootstock – providing the irrigation system is operated effectively and efficiently, of course. On the basis of this advice, I do not recommend any amendments to this Policy as a consequence of this submission.

1132. The W Crosse submission (224.001) seeks an acknowledgement in the Policy of the special characteristics of vineyards on the lighter soils of the Wairau Valley floor, and allow for increased reliability in the allocation of irrigation water for these areas. The submitter provides a very detailed explanation for the relief sought and, while it has not been entirely repeated here, it has been thoroughly considered by John Bright. In summary, the submitter is of the view that, while he supports the general concept that allowing for 100 per cent irrigation water reliability in all years is not an efficient use of the water resource and dilutes

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<sup>69</sup> 509.063 (Fish and Game), 425.052 (Federated Farmers), 431.009 (Wine Marlborough), 1124.037 (S MacKenzie), 457.009 (Accolade), 1218.009 (Villa Maria), 778.043 (Irrigation NZ), 631.010 (Constellation), 676.031 (Dairy NZ), 473.008 (Delegat Limited), 484.012 (Clintondale), 776.006 (Indevin Estates Limited), 909.009 (Longfield Farm Limited), 548.041 (AWUG), 962.021 and 962.037 (MFIA), 1242.010 (Yealands Estate Limited), 715.046 (Forest and Bird) and 1238.015 (Windermere Forests Limited)

the value of the water resource to Marlborough collectively, the consequence of implementing this Policy in a broad-brush manner will impact very differently depending on land use and land type.

1133. As mentioned above, John Bright has considered the matters raised in this submission and his advice is that the reasonable use volumes for the lighter soils are based on the use of a higher maximum daily rate (e.g. 2.5mm per day) than on the heavier soils. This results in the monthly and annual volumes being higher than they are for heavier soils. The special characteristics of vineyards on the lighter soils are provide for this way. On the basis of this advice, I do not recommend any amendments to this Policy as a consequence of this submission.
1134. The Lion submission (908.004) seeks the removal of this Policy entirely as, while it generally supports the approach to allocation, it opposes the use of allocating water for irrigation on the basis of nine in ten-year demand.
1135. There is insufficient information in this submission to understand why the submitter is seeking the relief they are, it is not even clear if they seek allocation on the basis of meeting demand every year, or going back to a basis of eight in ten-year demand as it was under the WARMP, or something else entirely. At this time, it is not possible to support the relief sought based on the content of the submission.
1136. The Nelson Forests Limited submission (990.172) does not seek specific relief for which an assessment or recommendation can be made, the submitter wants to ensure that this Policy does not have any impact on the establishment and replanting of plantation forests in the region. This Policy is about allocating water for the irrigation of crops and pasture, as the forestry industry has pointed out in several submissions, commercial forests do not require irrigation water so this Policy will be of no relevance.

### **Recommendation**

1137. It is recommended that Policy 5.3.7, and the associated explanation, are retained as notified.

### **Policy 5.3.8**

1138. Policy 5.3.8 reads as follows –

*“Approve water permit applications to continue taking and using surface water when:*

- (a) a specific minimum flow and allocation limit for the source Freshwater Management Unit is established in the Marlborough Environment Plan;*
- (a) the Freshwater Management Unit is not over-allocated in terms of the limits set in the Marlborough Environment Plan;*
- (b) there is to be no change to the intended use of water, or if there is a change in use, this results in a decrease in the rate of take of water; and*
- (c) the application is made at least three months prior to the expiry of the existing water permit.”*

1139. There are 18 submissions<sup>70</sup> that support Policy 5.3.8 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these 18 submissions in Appendix 1 are recorded as accepted in part.

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<sup>70</sup> 509.064 (Fish and Game), 1039.031 (Pernod Ricard), 431.010 (Wine Marlborough), 1124.038 (S MacKenzie), 457.010 (Accolade), 1218.010 (Villa Maria), 778.044 (Irrigation NZ), 631.011 (Constellation), 676.032 (Dairy NZ), 473.009 (Delegat Limited), 484.013 (Clintondale), 776.007 (Indevin Estates Limited), 909.010 (Longfield Farm Limited), 548.042 (AWUG), 962.022 (MFIA), 1242.011 (Yealands Estate Limited), 715.047 (Forest and Bird) and 1238.016 (Windermere Forests Limited)



1140. In the process of assessing submissions on Policy 5.3.8, two typographical/consistency errors have been identified. Correcting these errors does not alter the effect or intent of the provision, and I have considered them minor amendments. The consistency error is that the word “surface” should be removed and the Policy should instead reference water taken and used from a river dominated Freshwater Management Unit. The typographical error is that (a) appears twice in the matters listed in the Policy. I have recommended that the second matter is removed as a consequence of a submission, which if accepted by the Panel, would resolve the typographical error. The specific changes have been included in the Recommendations section below.
1141. The W Crosse submission (224.002) seeks that the second matter regarding overallocated FMUs is removed from the Policy. The submitter states he has held a water permit since 1987 for the purpose of irrigating his vineyard and if the latter determination that a water resource is overallocated means his permit would not be renewed, that would be unacceptable.
1142. I actually support the relief sought by the submitter, however for different reasons. In my view, that clause is unnecessary as the Policy only applies to river-dominated FMUs, and none of those FMUs have been identified in the MEP as overallocated. Removing this part of the Policy would not have any impact, but would potentially avoid any confusion that may arise.
1143. The Fulton Hogan Limited submission (717.025) sought the addition of a clause regarding granting consent where an FMU is over-allocated, however for the reasons explained above this not necessary as there are no over-allocated river dominated (surface water) FMUs in the MEP.
1144. The Ravensdown Limited submission (1090.007) sought clarification in the clause regarding over-allocated FMUs to link the reference to limits specifically to water quantity. As I have recommended that this clause is removed, the clarification is somewhat redundant. However, if the recommendation is not accepted by the Panel, and the clause is retained, I do not support the amendment sought by the submitter, particularly as the submission contains no information as to what the deficiency is in the provision that the relief is seeking to resolve.
1145. The Te Ātiawa submission (1186.041) seek that the Policy is amended to have each part end with and “and” or an “or” to clarify whether (a) to (d) all apply. The Introduction Chapter of Volume 2 (page 1-3) clarifies this matter for Plan users. For the benefit of the submitter, lists should be regarded as cumulative, except where indicated otherwise by the use of ‘and’ or ‘or’. No changes are recommended as a consequence of this submission.
1146. The Trustpower Limited submission (1201.052) seeks the amendment of the Policy to add damming and diverting water. The submitter states it generally supports this Policy, however considers that all aspects of water use need to be taken into consideration.
1147. The basis of this provision is that because minimum flow and allocation limits have been established, and those MEP limits have already taken into consideration effects on the environment (including natural and human use values), granting a water permit to take and use from a river dominated FMU (if all other conditions are met) can be assumed to be sustainable. As the damming and diversion of water in almost all case will not be covered by minimum flow and allocation limits in the MEP, the same cannot be said for those activities. On this basis, I am not comfortable extending this Policy as sought to include the damming and diversion of water.
1148. It should be noted that this Policy is not intended to suggest any water permit sought outside the perimeters will not be granted, rather it is intended to be a positive Policy identifying that

under a particular set of circumstances, applicants can have some certainty that their consent *will* be granted. It is somewhat based on s124 of the Act, and it would not be fatal to the provisions if it was removed, however it was considered that it may have been of benefit to many water users.

1149. The Fonterra submission (1251.015) seeks the amendment of the Policy and/or the associated explanation to set out how an application to replace water permits will be addressed if condition 1 of the Policy is not met. The submitter is of the view that the Policy usefully sets out the preconditions for when a replacement water permit will be granted, and a key condition is that a specific minimum flow and allocation limit needs to have been set in the Plan. However, less usefully the Policy does not indicate how a replacement (or other) consent application will be dealt with if minimum flows and allocation limits specific to the relevant waterbodies have not been set in the Plan.

1150. The likelihood of a permit being sought from a resource that has no minimum flows or allocation limits in the MPE is very low. Water has been allocated in Marlborough for over 20 years and therefore environmental limits exist where there has been a demand for water. If a water permit is sought that instead relies on the default-related environmental limit provisions of the Plan (i.e. Policies 5.2.7, 5.2.8 and 5.2.14), then it is appropriate that they should be considered on a case-by-case basis and potentially even not granted. There are other provisions in the Plan, such as those mentioned, that will assist in the consideration of applications of this nature. In my view, it is not necessary or appropriate to amend this Policy or its explanation as sought.

1151. The Irrigation NZ submission (778.093) seeks the addition of a new Rule that would make the replacement of an existing take and use resource consent a Restricted Discretionary Activity, as it is of the view consent renewals should have an easier pathway as their environmental effect is already known.

1152. Policy 5.3.8, and s124 of the RMA, make particular provision for consents being sought for continuing activities. While s124 enables a water users to continue their activity while seeking a replacement consent, Policy 5.3.8 signals that for takes from river dominated FMUs that are in essence not changing, consent will be granted. The use of Controlled and Restricted Discretionary statuses in the MEP is extremely limited and, in my view, this is not a particular circumstance that warrants this approach. The take and use of water has been at a least Discretionary Activity under the operative planning documents, and it is appropriate that it continue to be. As noted in the explanation to Policy 5.3.8, even if granted, other policies in the MEP may result in different conditions being applied and therefore full discretion is still appropriate.

1153. The Trustpower Limited submission (1201.116) seeks the addition of a new Controlled Activity Rule as follows –

*“The lawfully established:*

- *Damming and diversion of water; and*
- *Take and use of water; and*
- *Discharge of water to water; and*
- *Discharges of contaminants to water and to land; and*
- *Use of a structure in the bed of a lake, stream or river; and*
- *Excavation and disturbance of the beds of lakes and rivers, and associated clearance of vegetation in the bed of lakes and rivers;*

*Associated with a hydro-electric power scheme that existed on the date this Plan becomes operative is a Controlled Activity where the following conditions are met:*

- (i) The consent application(s) replace existing resource consents; and*
- (ii) There is no increase in the existing volume or rate of take or diversion; and*

(iii) *There is no increase in the existing volume of discharge or the nature of contaminants being discharged.*”

1154. In addition to the details of the new Rule proposed above, the submitter provided 17 matters (and 6 sub matters) over which it considers the Council should reserve control. The submitter is concerned about the lack of certainty that arises through Policy 5.2.3, which prohibits the taking and use of water on certain waterbodies, yet Policy 5.3.8 allows for the approval of water permits to continue taking and using surface water. In particular, for the Branch HEPS, which has a narrow allocable volume of water available for use, ensuring that the ongoing operation of that regionally significant generation facility is crucial. It is important to protect existing renewable electricity generation resources, as they are significant physical resources which require protection in terms of Part 2 of the RMA. This approach would also give effect to the NPS-REG. A number of Regional Councils around the country have adopted this approach, including the West Coast, Bay of Plenty and Waikato.

1155. I find this proposed Rule to be so extensive and widespread over many types of activities across the MEP, that I do not feel comfortable with it sitting as a Controlled Activity. Short of the status of the activity not giving the Council the option to decline consent, I am not sure that the Council's discretion is particularly limited/controlled here, as might be anticipated. If the Council is able to reserve control over what appears to be every aspect of the activity, but has to grant it, it seems like this could lead to some perverse outcomes. There are some specific aspects of the proposed rule that concern me, the discharge of contaminants to water may be an activity affected by the setting of limits for water quality under the NPSFM, which is yet to take place. And, the s13 activities in the beds of lakes and rivers, I am not clear on whether this is an existing activity. Another matter I am mindful of is that, while the proposed provision includes activities that are the subject of this hearing, there are other aspects which would have been covered in other hearings, and therefore perhaps should be considered by other planners in the relevant context.

### **Recommendation**

1156. It is recommended that Policy 5.3.8 is amended as follows –

*“Approve water permit applications to continue taking and using surface water **from a river dominated Freshwater Management Unit** when:*

- (a) a specific minimum flow and allocation limit for the source Freshwater Management Unit is established in the Marlborough Environment Plan;*
- ~~(a) the Freshwater Management Unit is not over-allocated in terms of the limits set in the Marlborough Environment Plan;~~*
- (b) there is to be no change to the intended use of water, or if there is a change in use, this results in a decrease in the rate of take of water; and*
- (c) the application is made at least three months prior to the expiry of the existing water permit.”*

1157. It is recommended that the explanation to Policy 5.3.8 is retained as notified.

### **Policy 5.3.9**

1158. Policy 5.3.9 reads as follows –

*“Express any allocation of water for irrigation purposes on the following basis:*

|                                | <b>Take of surface water</b>  | <b>Take of groundwater</b>  | <b>Use of water , except for the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit.</b>  | <b>Use of water – Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit</b>  |
|--------------------------------|---|---|--|--|
| <b>Quantity</b>                | <i>m<sup>3</sup></i>  | <i>m<sup>3</sup></i>  | <i>m<sup>3</sup></i>   | <i>m<sup>3</sup></i>   |
| <b>Period</b>                  | <i>24 hours</i>   | <i>Annual</i>   | <i>Monthly; and Annual</i>   | <i>Annual</i>  |
| <b>Method of determination</b> | <i>The maximum daily rate of take shall not exceed the daily volume that fully meets irrigation demand on 90% of the days in the irrigation season, as calculated by using IrriCalc with climate data for the period 1 July 1972 to 30 June 2014.</i> | <i>The maximum rate of take (m<sup>3</sup>/year) in a July-June year shall not exceed the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.</i> | <i>The maximum volume of irrigation water use in a calendar month shall be the monthly volume that fully meets irrigation demand in 90% of those months in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc; and<br/><br/>The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.</i> | <i>The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.</i> |

1159. There are 11 submissions<sup>71</sup> that support Policy 5.3.9 and seek its retention as notified. On the basis that I have recommended amendments to the Policy as a consequence of other submissions, the recommendation for these eleven submissions in Appendix 1 are recorded as accepted in part.

1160. The MDC submission (91.045) seeks changes to the heading for column 2 in this table so that in essence it is specific to river dominated FMUs by specifying the FMUs not covered under that column, and the converse for Column 3 so that it in essence it is specific to aquifer dominated FMUs by specifying the FMUs covered under that column. The submitter states that, due to the integrated nature of the FMUs, i.e. they can contain surface water and groundwater, it is more appropriate and provides greater certainty to be explicit in Policy 5.3.9 about the FMUs to which the expressions of allocation apply.

<sup>71</sup> 431.011 (Wine Marlborough), 457.011 (Accolade), 1218.011 (Villa Maria), 778.045 (Irrigation NZ), 676.033 (Dairy NZ), 473.010 (Delegat Limited), 909.011 (Longfield Farm Limited), 548.043 (AWUG), 962.023 (MFIA), 715.048 (Forest and Bird) and 1238.017 (Windermere Forests Limited)

1161. In my view, this provides greater more explicit certainty for Plan users, and responds to concerns raised in submissions regarding which FMUs are managed in which ways. This change would bring this Policy in to line with the overall approach in the water allocation and use provisions. Pernod Ricard have lodged a further submission opposing this change in part, however it appears to be based on not understanding the intent of the submission so hopefully that has now been made clearer. The specific wording changes recommended are in the Recommendations section below.
1162. The MDC submission (91.263) seeks to amend the phrase "*1 July 1972 to 30 June 2014*" referred to in the row headed "*Method of determination*", to read "*1 July 1972 to the most recent year ending 30 June*". The relief sought reflects that the data behind Irricalc is will be updated beyond 30 June 2014. One further submission was received that was specific to this change, it was in support from NZDF as it is of the view that this is a standard methodology used in other regions, and therefore the amendment is appropriate. I support the change sought and have recorded the specific amendments in the Recommended section below.
1163. The S Bradley submission (221.001) seeks a slight reduction ( $300\text{m}^3/\text{ha}/\text{month}$ ) in summer (Dec- Jan) for an equivalent increase in autumn (Mar- Apr) to allow management soil moisture closer to refill point. The submitter provides a detailed explanation for the relief sought and, while it has not been repeated here, it has been thoroughly considered by John Bright. John notes that the MEP provisions enable variations, such as described by the submitter, to be made on a case-by-case basis.
1164. S Bradley also seeks that the use of stored water should based on water requirements on 10 out of 10 years. The submitter states that, as a significant investor in storage dams, generally based on moderate water use for a number of weeks, he is concerned that the use consent based on 9 out of 10 years will leave him short of water, despite spending hundreds of thousands to prevent such an event. The use of diesel pumps may mean watering for shorter but higher volumes from the stored water. Generally, management of your stored water should be the managers responsibility to make sure you get through the drought, not through a dictum of a computer model.
1165. John Bright has also considered this aspect of the submission and advises that one of the purposes of Policy 5.3.7 is to achieve a balance between maximising the value of irrigation to individual growers and maximising the total economic output in a catchment from all the water made available for taking (i.e. the allocation limit). The water a person puts into storage to enable usage up to the 10 out of 10 year level could have gone to someone else who might need it to enable them to use up to the 9 out of 10 year level. So, in theory, allowing storage to be used to enable water use to increase to the 10 out of 10 year level is contrary to Policy 5.3.7. On the other hand, allowing this to happen will incentivise storage of river water, which is another policy objective. A pragmatic solution might be to allow 10 out of 10, monitor the outcomes and revert to 9 out 10 year levels in some future plan revision if perverse outcomes have occurred.
1166. I can appreciate the matter raised by the submitter, however it would be quite a change in direction to enable usage 10 out of 10 years and, in my view, careful consideration of all the relevant provisions would be required. And I am conscious that there is significant support for this Policy and other Policies that relate to reasonable use, including the approach of basing the regime at the 9 out of 10 year level, and only one submitter seeking change. If the Panel is of a mind to consider the submitter's proposal, further work could be done to consider the ramifications and practicalities of its application.
1167. The W Crosse submission (224.003) seeks the elimination of the provision in IrriCalc for a monthly period for stony soils with low PAW, and require only that the annual period requirements are met. The submitter states that he supports the general intent of the Policy, however with reference to his comments under Policy 5.3.7, this Policy should be adjusted to

recognise that it is essential to provide sufficient water in all growing years to avoid stress of Sauvignon Blanc on stony soils.

1168. This submission has been considered by John Bright and he advises that this request is contrary to Policy 5.3.7 which seeks a balance between maximising the value of irrigation to individual growers and maximising the total economic output in a catchment from all the water made available for taking (i.e. the allocation limit). On the basis of John's advice, no amendments are recommended to this Policy as a consequence of this submission.
1169. The Pernod Ricard submission (1039.032) seeks amendment of the Policy to address its concerns. The submitter generally supports the approach in the Policy, however is concerned that calculations using IrriCalc do not in fact provide the outcome specified (i.e. would not "*fully meet the irrigation demand on 90% of*" days/months), that the Plan provisions dictate that only the IrriCalc can be used in determining allocations, and that the assumed irrigation efficiency should also be specified.
1170. The second two concerns have been raised and addressed elsewhere, so they have not been considered again here. The first concern lacks any sort of information to support the submitter's assertion, so there is little that can be assessed, and it is unknown what amendment of the Policy the submitter is actually seeking in relation to this concern.
1171. The Fish and Game submission (509.065) to remove the Policy in its entirety and replace it with a policy that ensures both instantaneous take and specific allocation amounts are considered in achieving policies relating to maximum instantaneous rate of takes being a percentage of flow, as well as protection for the ecological values of waterbodies. In the submitters view, takes of water from rivers need to be expressed as an instantaneous take (litres/second) as well as daily, weekly, monthly and seasonal amounts (as required as part of the consent consideration) in order to achieve other policies about maximum instantaneous rate of take not being more than 5% of flow as well as for the protection of ecological values of waterbodies.
1172. This submission has been considered by Val Wadsworth and the following is his advice –
- Val agrees with the Fish and Game submission, it is important that instantaneous rates are included in water permit applications and granted resource consents.
  - When considering instantaneous effects on surface waterbodies it is necessary to know what the maximum instantaneous rate of take of a system is. Although less common now, it used to be commonplace for irrigation systems to be designed to operate for 18-20 hours per day, this means dividing the daily total by 24 does not give a correct answer.
  - Some irrigation systems are overdesigned purposely so if needs be they can be used to catch up, particularly if pumping to storage is involved.
  - Other provisions, such as Policies 5.2.9 and 5.3.10, infer the need to know instantaneous rates of take.
  - Val would have also thought that when calculating interference effects in groundwater resources, it would be necessary to know actual pumping rates, rather than just daily totals.
1173. I agree with Mr Wadsworth and the submitter that having the instantaneous rate for an abstraction is necessary, not least of all due to other provisions, such as those mentioned above but also to ensure the take is sustainable. However, I do not agree with the submitter that this Policy needs to be replaced with an alternative that is specifically stating allocation by way of instantaneous rate. In my view, this is a practice issue, the provisions of the Plan do not explicitly set out every detail an applicant has to include in their resource consent application. An application will need to include all the information, which may vary between resources and activities, that a decision maker requires to determine whether to grant

consent and/or establish the appropriate conditions of consent. I do not recommend any changes to this Policy as a consequence of this submission.

**Recommendation**

1174. It is recommended that the headings in row 1, column 2 and row 1, column 3 are amended as follows –

|  |  |  |  |   |
|--|--|--|--|---|
|  | <i>Take of <del>surface</del> water, except from the following Freshwater Management Units – Wairau Aquifer, Riverlands, Southern Springs, Brancott, Benmorven or Omaka Aquifer.</i> | <i>Take of <del>groundwater</del> from the following Freshwater Management Units – Wairau Aquifer, Riverlands, Southern Springs, Brancott, Benmorven or Omaka Aquifer.</i> | <i>Use of water, except for the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit.</i> | <i>Use of water – Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit</i> |
|--|--|--|--|---|

1175. It is recommended that the heading in the row headed "Method of determination" in the table within Policy 5.3.9, is amended as follows –

|                                |  |  |   |   |
|--------------------------------|--|--|---|---|
| <b>Method of determination</b> | <i>The maximum daily rate of take shall not exceed the daily volume that fully meets irrigation demand on 90% of the days in the irrigation season, as calculated by using IrriCalc with climate data for the period 1 July 1972 to <del>30 June 2014</del> the most recent year ending 30 June.</i> | <i>The maximum rate of take (m<sup>3</sup>/year) in a July-June year shall not exceed the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to <del>30 June 2014</del> the most recent year ending 30 June, as calculated by using IrriCalc.</i> | <i>The maximum volume of irrigation water use in a calendar month shall be the monthly volume that fully meets irrigation demand in 90% of those months in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc; and<br/><br/>The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to <del>30 June 2014</del> the most recent year ending 30 June, as calculated by using IrriCalc.</i> | <i>The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets irrigation demand in 90% of July-June years in the period 1 July 1972 to <del>30 June 2014</del> the most recent year ending 30 June, as calculated by using IrriCalc.</i> |
|--------------------------------|--|--|---|---|

**Policy 5.3.10**

1176. Policy 5.3.10 reads as follows –

*“The instantaneous rate of take from a surface waterbody may exceed the instantaneous equivalent of the maximum daily allocation:*

- (a) by 20% at any point in time; or*
- (b) for 20% of the time;*

*but in both cases the cumulative take over 24 hours (midnight to midnight) must not exceed the daily maximum.”*

1177. There are 17 submissions<sup>72</sup> that support Policy 5.3.10 and seek its retention as notified.

1178. The Fish and Game submission (509.066) seeks to remove the Policy in its entirety and replace it with a Policy that ensures both instantaneous take and specific allocation amounts are considered in achieving policies relating to maximum instantaneous rate of takes being a percentage of flow, as well as protection for the ecological values of waterbodies. The submitter is of the view that takes of water from rivers need to be expressed as an instantaneous take (litres/second) as well as daily amounts in order to achieve other policies about maximum instantaneous rate of take not being more than 5% of flow as well as for the protection of ecological values of waterbodies.

1179. The EDS submission (698.026) seeks to remove the Policy in its entirety as the submitter is of the view that this Policy provides for the ability for the amount of water taken at any given moment to exceed the allocation limit, provided that the overall take for a 24 hour period is not exceeded. The intention behind this Policy is to provide flexibility for irrigation users. The limit on the allocable quantum is set to ensure that ecological values are protected and the life supporting capacity of the environment is safeguarded. A take exceeding the limit even for a short duration can have significant adverse effects on instream ecological values. This approach is inconsistent with the concept of environmental limits.

1180. These two submissions were considered by Val Wadsworth, and the following is his advice –

- Firstly, the reason for this Policy; water users advised Council staff that in some situations, such as the initial charging of empty lines, or flushing open ended pipes, it is difficult to keep flow rates down to the consented volume, as the pump is working against a lesser head. These practices are not common, so only occur occasionally.
- With water takes being spaced along the various rivers such as the Awatere, the likelihood of these occasions coinciding exactly in terms of river flow are lessened.
- On the Wairau River, with a high percentage of the Class A takes being from river gravels, the effects are buffered by the groundwater component of the take.
- Overall, it was considered unlikely that effects would be significant.
- If the evidence that there could be an issue was persuasive, then there could be two options –
  - Each consent applies for an over-rate percentage with details of likelihood; or
  - The two 20% figures could be revised downwards to further limit the potential effects.
- As stated elsewhere, this Policy highlights the need for the maximum instantaneous take for a surface waterbody abstraction forming part of an application/consent.

1181. As mentioned by Mr Wadsworth, this Policy responded to an issue raised during the review by submitters, and when considered in the context in which it would be applied, was considered sustainable. Apart from a differing view of the approach, the submitters have not provided information to demonstrate that the Policy when applied would cause unacceptable

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<sup>72</sup> 425.053 (Federated Farmers), 462.048 (BRIL), 1039.033 (Pernod Ricard), 431.012 (Wine Marlborough), 457.012 (Accolade), 1218.012 (Villa Maria), 778.046 (Irrigation NZ), 631.012 (Constellation), 676.034 (Dairy NZ), 473.011 (Delegat Limited), 484.015 (Clintondale), 909.012 (Longfield Farm Limited), 548.044 (AWUG), 962.024 (MFIA), 1242.012 (Yealands Estate Limited), 715.049 (Forest and Bird) and 1238.018 (Windermere Forests Limited)



effects, although Mr Wadsworth has suggested there are potential alternatives if they do. A substantial number of irrigators submitted in support of this Policy and it would be good to get an understanding from them at the hearing of whether this Policy would lose any benefit it provides if the 20% figures were revised downwards. It is assumed that all of these submitters would be aware that an instantaneous rate would form part of their consent, as how else could they take advantage of the flexibility provided by this provision.

1182. Given the differing views on this Policy, Mr Wadsworth's advice, and the lack of information in the submissions to demonstrate that the Policy is not appropriate, I am going to defer making any recommendation until I have heard/read the hearing evidence.

### **Recommendation**

1183. I am deferring the recommendation for Policy 5.3.10, and its associated explanation, until the hearing evidence is available to consider.

### **Policy 5.3.11**

1184. Policy 5.3.11 reads as follows –

*“Have regard to the potential for any take of water to adversely affect the ability of an existing water user to continue taking water and mitigate any adverse effects by limiting, where necessary, the instantaneous rate of take.”*

1185. There are seven submissions<sup>73</sup> that support Policy 5.3.11 and seek its retention as notified.

1186. The NMDHB submission (280.015) seeks amendment of the Policy so that it provides for reverse sensitivity effects on other activities including the effects of a water take on existing lawful point source discharges and the ability to maintain adequate assimilative capacity within receiving waters to ensure adverse effects on people's safety or the environment do not arise. While this policy seeks that regard is given to any potential reverse sensitivity effects of water takes on other existing water takes, it does not provide for reverse sensitivity effects on activities other than water takes.

1187. I am quite uncertain about this submission, it has to be assumed that the submitter is referencing the effect of a water take on a consented point source discharge to water as a water permit applicant would not be able expected to ascertain the existence of Permitted Activity point source discharges to water. And it is my understanding that there are next to no consented point source discharges to water, so I am not clear what specific situation is causing the NMDHB concern. Further, even if the issue was clear, I am not certain that limiting the instantaneous rate would necessarily be the way to address it, however I acknowledge there does not seem to be an obvious fit anywhere else in the provisions. In the absence of further information to understand the issue, and a lack of specific wording for an amendment, I have not recommended acceptance of this submission at this time.

1188. The NZDF submission (992.009) seeks amendment of the Policy to also include limits on the total daily or annual take to appropriate mitigate the potential effects, as this Policy appears to only provide mitigation through limiting the instantaneous rate of take. However, restricting the total (daily or annual) take is also useful for mitigating effects.

1189. The approach in this Policy is deliberate as it is about interference effects relative to instantaneous rates. If a take is granted within environmental limits, e.g. minimum flows/levels, conductivity levels, and allocation limits, and in accordance with other policies, such as reasonable use, then the effects of the volume to be abstracted have already been considered. It would be useful if the submitter could provide examples of effects they are

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<sup>73</sup> 425.054 (Federated Farmers), 1201.043 (Trustpower Limited), 1039.034 (Pernod Ricard), 676.035 (Dairy NZ), 548.045 (AWUG), 715.050 (Forest and Bird) and 1238.019 (Windermere Forests Limited)

concerned may need mitigating, that would not be already considered through the limits on volumes abstracted and instantaneous rates. At this time, I do not support the relief sought.

1190. The Irrigation NZ submission (778.047) seeks amendment of the Policy as follows – “*Have regard to the potential for any **new take of water (this excludes resource consent renewals)** to adversely....*”. In the submitter’s view it is important that the Policy clarifies it applies to new takes and not consent renewals. The Levide Capital Limited submission (907.005) sought similar relief.

1191. It does not appear to me that this was the intent of the Policy. In reading the provision itself, it clearly states “*any take of water*”, and then the explanation in paragraph two states that the, “*potential for any interference effects.....will have to be assessed for any water permit application*”. In addition, this Policy is equally, if not more, about abstractions from aquifers and, as all of the aquifer dominated FMUs are overallocated, this provision would make no sense if it did not apply to all takes, as there will be no new abstractions from any of the aquifers for at least the life of this Plan. I do appreciate the concern that has been raised, however even if there was an amendment of the Policy to address the concerns, I would not support the specific changes sought. For one thing, there is no such thing as a renewal under the RMA, and for another, many new permits granted to replace expiring consents have some aspect of the activity that has changed, e.g. point of take, irrigated area. If this Policy was limited to new abstractions, then in my view, it would at least have to link back to s124 to ensure the activity is the same. At this time, I am not comfortable recommending acceptance of the submission.

1192. The Fish and Game submission (509.067) seeks retention of the Policy with amendments that reword the policy to remove “have regard to” and provide greater direction to plan users and decision makers and ensure it meets the principles of sound policy drafting. In the submitters view this Policy is written as a Method rather than a Policy and, while its intent is supported, the Policy needs to be rewritten.

1193. This is a rather consistent criticism of this submitter. I have no problem with the approach taken in drafting the provisions of the Plan, but I will leave to Fish and Game’s planners to argue their position for the Panel’s consideration.

### **Recommendation**

1194. It is recommended that Policy 5.3.11, and the associated explanation, are retained as notified.

### **Policy 5.3.12**

1195. Policy 5.3.12 reads as follows –

*“Enable the construction of bores while recognising that this policy does not authorise the taking of water for any purpose other than bore testing.”*

1196. There are 15 submissions<sup>74</sup> that support Policy 5.3.12 and seek its retention as notified.

1197. The Federated Farmers submission (425.055) seeks amendment of the Policy as follows –

*“Enable the construction of bores ~~while recognising that this policy does not authorise the taking of water for any purpose other than bore testing.~~”*

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<sup>74</sup> 462.049 (BRIL), 1039.035 (Pernod Ricard), 431.013 (Wine Marlborough), 457.013 (Accolade), 1218.013 (Villa Maria), 778.048 (Irrigation NZ), 631.013 (Constellation), 473.012 (Delegat Limited), 484.016 (Clintondale), 909.013 (Longfield Farm Limited), 962.026 (MFIA), 1242.013 (Yealands Estate Limited), 715.051 (Forest and Bird), 992.010 (NZDF) and 1238.020 (Windermere Forests Limited)

The submitter supports the enabling intention of Council to provide for the construction of bores, but submit that the wording of this Policy should better reflect it as a policy rather than a prescriptive rule.

1198. This is a provision for a land use activity amidst a chapter full of provisions managing the taking, using, damming and diverting of water. While it is logical to have in the Plan in this location, there is the potential for people installing bores to consider there may be some authority attached to take water. Anecdotal evidence during the life of the operative Plans supports this possible misunderstanding between installing a bore and taking water. The provision as notified provides clarity and guidance for plan users, I am not clear why the submitter would find this to be an unhelpful thing for its members.

1199. The NZTA submission (1002.020) seeks amendment of the explanation to Policy as follows –

*“Bores are used as the means to access water from Marlborough’s aquifers **and to investigate and monitor conditions below the ground surface.** Rules identify that bore construction will be a permitted activity. The construction of a bore has limited potential to cause adverse effects, while still enabling groundwater **and sub-surface conditions** to be accessed....”*

The submitter considers it appropriate to have a Policy that enables the construction of bores, however the Policies is directed to bores for water abstraction. Amendment to the reason will clarify that bores for investigation and monitoring should also be enabled.

1200. The purpose of this Policy is to enable the construction of bores for water abstraction, and it is given effect to through Permitted Activities in the zone rules. Permitted Activity rules also exist for the construction of bores for geotechnical investigations, these will be giving effect to higher level provisions elsewhere in the MEP. If those higher level provisions are not in the MEP, then that is a consideration that needs to be taken up at the appropriate location, possibly natural hazards or urban/rural environments. In my view, the relief sought would be inappropriate to apply in the context of this Policy.

### **Recommendation**

1201. It is recommended that Policy 5.3.12, and the associated explanation, are retained as notified.

### **Policy 5.3.13**

1202. Policy 5.3.13 reads as follows –

*“While seeking to manage interference effects between groundwater users, recognise that it is unreasonable to protect an existing take of groundwater when the bore does not fully penetrate the aquifer.”*

1203. There are six submissions<sup>75</sup> that support Policy 5.3.13 and seek its retention as notified.

1204. The Fulton Hogan submission (717.026) seeks the inclusion of guidance in the Plan as to the definition of “fully penetrate the aquifer” by, for example, specifying a minimum depth below the likely lowest groundwater level for an aquifer, specifying a depth below which a significant percentage (e.g. 50%) of bores are drilled at a specific date, ora depth based on the best available technical information. The submitter is concerned about the significant uncertainty around the implementation of the Policy.

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<sup>75</sup> 769.023 (Horticulture NZ), 1039.036 (Pernod Ricard), 778.049 (Irrigation NZ), 962.027 (MFIA), 715.052 (Forest and Bird) and 1238.021 (Windermere Forests Limited)

1205. The NZDF submission (992.011) similarly is concerned that there is no definition for "*fully penetrate the aquifer*", and also notes that the MEP does not address deep bores resulting in leakage effects on the shallower bores, nor does it take into account the potential for saline intrusion if bores are installed to the base of an aquifer below sea level.

1206. Both of these submissions were considered by Peter Davidson and his advice is as follows –

- MDC have avoided specifying the minimum depth for aquifers or groundwater management sectors as they can be highly variable and change with time.
- For example, the depth of both irrigation and domestic wells tapping the Wairau Aquifer has increased over the past 35 years as groundwater levels have declined and pumping systems have changed.
- Gradually wells are being deepened and in most cases, they are of similar depth based on the MDC Wells database.

1207. Based on the advice of Peter Davidson, no changes are recommended to this Policy as a result of these submissions.

### **Recommendation**

1208. It is recommended that Policy 5.3.13, and the associated explanation, are retained as notified.

### **Policy 5.3.14**

1209. Policy 5.3.14 reads as follows –

*"The duration of water permits to take water will reflect the circumstances of the take and the actual and potential adverse effects, but should generally:*

*(a) not be less than 30 years when the take is from a water resource:*

*(i) that has a water allocation limit specified in Schedule 1 of Appendix 6; and*

*(ii) that has a minimum flow or level specified in Schedule 3 of Appendix 6; and*

*(iii) that is not over-allocated; or*

*(b) not be more than ten years when the take is from an over-allocated water resource as specified in Policy 5.5.1; or*

*(c) not be more than ten years when the take is from a water resource that has a default environmental flow established in accordance with Policies 5.2.7 and 5.2.14."*

1210. There are 17 submissions<sup>76</sup> that support Policy 5.3.14 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these 17 submissions in Appendix 1 are recorded as accepted in part.

1211. The Ngāti Toa submission (166.007) seeks that the Council consider climate change and potentially limit water permits to a lesser duration to allow for the changing climate that may bring about longer periods of drought, the submitter asks, does this take into consideration the impact of Climate change and the predicted droughts?

1212. I discussed this submission with Val Wadsworth and he advised that climate change was not a significant consideration regarding consent term as there are other issues that have the

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<sup>76</sup> 462.050 (BRIL), 1039.037 (Pernod Ricard), 431.014 (Wine Marlborough), 457.014 (Accolade), 1218.014 (Villa Maria), 631.014 (Constellation), 473.013 (Delegat Limited), 776.008 (Indevin Estates Limited), 484.017 (Clintondale), 909.014 (Longfield Farm Limited), 548.046 (AWUG), 962.028 (MFIA), 1242.014 (Yealands Estate Limited), 715.053 (Forest and Bird) and 1238.022 (Windermere Forests Limited)

potential to have a greater impact on water resources within a shorter timeframe. It is not recommended that this Policy is amended as a consequence of this submission.

1213. The Trustpower Limited submission (1201.053) seeks that the Policy be amended to include the damming, diversion and use of water, and that (a)(i) also reference Schedule 2. The submitter supports the Policy 5.3.14, however considers that some minor amendments are required to provide for all activities consented by water permits, and to include reference to Schedule 2 of Appendix 6 for the consumptive diversion allocation limits.
1214. With regards to the damming and diversion of water, I do not agree with the addition of these activities for similar reasons discussed elsewhere, in particular because in almost all cases these activities do not have limits in Appendix 6. Having said that, and as indicated by the submission, there are consumptive diversion activities in that do have an allocation limit and a minimum flow. I see no reason why these could not be added to this Policy, therefore I have provided amended text in the Recommended section below. With regards to adding water use to the Policy, this is unnecessary as there is no need for use permits to be limited in particular. On the basis that I have not recommended accepting all of the changes sought, the submission is recorded as accepted in part on Appendix 1.
1215. The EDS submission (698.027) seeks to add a (d) to the Policy to require all permits within each FMU to have common review dates to allow changes to the permit to reduce over-allocation, address cumulative effects and assess and address efficiency of use.
1216. I consider the relief sought to be unnecessarily restrictive on the Council. Currently all water permits have s128 conditions which enable the Council to review the conditions of consent and, while they are limited in the months of any particular year they can be conducted, they are not limited to a particular date. At present, if it was appropriate for the Council to review all permits within an FMU at the same time, it could, but if that was not necessary or appropriate it does not have to. In my view, applying the restriction sought so the Council is limited to reviewing all permits within an FMU at the same date would not be of benefit to the environment.
1217. The next group of submissions all seek changes to water permits terms in some form, from having no terms specified in the Plan, to limiting the terms to lower maximums, to increasing the terms across the board. There are varying arguments to support the views held and the relief sought. I also bring to the attention of the Panel that there are a number of further submissions for and against the respective submissions. For these reasons, I have decided to set out all of the submissions and relief sought first, and followed that by my collective assessment and recommendation.
1218. The Ngāi Tahu submission (1189.051) seeks that the Policy be replaced with a policy that is in line with the Kaikoura IMP, and guides the decision maker to issue permits for 10-15 years maximum, or an even shorter period may be suitable in some instances. The submitter states that the Kaikoura IMP opposed water take permits of 35 years, and states that the duration of water permits must reflect potential risk to surface and groundwater health.
1219. The Te Ātiawa submission (1186.042) seeks to reduce the minimum term (assume mean maximum) for permits to 10 years in the Policy as it opposes a term of 30 years as it is beyond the expected life of the MEP and creates a property right expectation of water which is a public, iwi and community resource which users do not pay for but exploit for commercial gain. Such a term undervalues/ignores the significance of water to the Maori people and is contrary to the treaty of Waitangi and the Maori world view.
1220. The Fish and Game submission (509.068) seeks to remove the Policy and replace it with one that implements shorter duration water permits and catchment expiry dates to take into account the cumulative impacts of water take. Alternatively, ensure that all water permits

contain a review clause under Section 128 of the RMA which enables the Council to review consents, on a catchment or regional basis at a common date in the future.

1221. The Fulton Hogan submission (717.027) seeks removal of the Policy as it is of the view that setting maximum consent durations through a Policy without considering both the potential effects and benefits of an activity is presumptuous and does not promote sustainable management.

1222. The S James submission (193.002) seeks that the minimum resource consent term should be 30 years as the submitter does not agree that resource consents should expire and need to be re-applied for every 10 years.

1223. The Federated Farmers submission (425.056) and the Irrigation NZ submission (778.050) seek parts (b) and (c) of the Policy are amended to increase the minimum consent duration to 15 years. Federated Farmers is of the view that where the take is from a water resource with a default environmental flow, then there should be the opportunity for the resource user to put forward a case for a consent longer than ten years. Both submitters also consider that more appropriate than ten years, would be to recognise that the consent should be no more than fifteen years, on the basis that this is often the typical payback time for infrastructure.

1224. The Dairy NZ submission (676.036) seeks amendment of (c) within the Policy to read – “~~not be more~~ **less than ten years when the take is from a water resource that has a default environmental flow established in accordance with Policies 5.2.7 and 5.2.14, except the consent duration may be longer than ten years where information has been provided to demonstrate an acceptable level of effects.**” The submitter is of the view that the Policy provides certainty for dairy farmers, however (c) sets consent duration of not more than 10 years where the water resource has a default flow set. The applicant should be permitted to apply for a longer consent period where information supplied in their application supports this and/or when new hydrological information becomes available during the Plan 's 10-year life span. This approach is more consistent with the enabling intent of Policy 5.3.5.

1225. The Fonterra submission (1251.092) seeks that the 30 year term in (a) is increased to 35 years but changes the application from “*not be less than*” to “*be up to*”, and it seeks the removal of (b) and that (c) is changed from “not more than years” to “up to 15 years”. The amendment to (a) is sought to reflect the RMA and business investment. The submitter is of the view that (b) is inconsistent with Policy 5.2.13, which seeks to avoid allocating water through the resource consent process beyond the limit set for the waterbody. And that the timeframe in (c) should be increased to a longer timeframe and rely on s128 of the RMA to amend, reduce or stop a water take if a water resource is approaching over allocation / is over allocated.

1226. The NZDF submission (992.012) seeks the amendment of this Policy to better acknowledge the importance of providing longer consent durations, and therefore surety of supply, for NZDF water takes. The submitter states support for the overall intent of this Policy as the management of water resources through consent duration is considered appropriate, particularly where the specific aquifer is well-known and full information is held, improved provision for NZDF water takes is requested.

#### Collective assessment and recommendation

1227. There are a range of approaches that could be taken to reflect the submissions –

- Remove the policy and have each duration of consent determined on a case by case basis (Fulton Hogan); or

- Shorten all durations to no more than 10 or 15 years (Ngāi Tahu, Te Ātiawa, Fish and Game); or
- Increase all durations to at least 30 years (S James);
- Retain the durations as notified (17 submitters<sup>77</sup>); plus
- Varying tweaks to the durations and approach taken in (b) and (c) (Federated Farmers, Dairy NZ, Irrigation NZ, Fonterra)

1228. There are a range of approaches that could be taken to reflect the submissions –

1229. Generally, I am comfortable with the Policy as notified and consider that it provides a good balance between providing longer durations where there is more certainty regarding a water resource, and taking an appropriate precautionary approach where less certainty exists. I also note that the Policy has been very specifically drafted (as referenced in the Policy's explanation) to state that these are the durations that "*should generally*" be applied, signalling that there may be other factors within specific proposals that may influence duration (such as those raised by the NZDF and Federated Farmers/Irrigation NZ).

1230. The Policy actually has quite limited circumstances where it guides durations towards no more than 10 years. In my view, it is entirely appropriate that durations are limited in overallocated resources until such time as the overallocation is resolved, and for consents reliant on the default minimum flow or allocation limit policies. There are some submitters seeking this to be increased to 15 years, however durations of 10 years have consistently been applied to permits under the operational Plans where a level of uncertainty exists and, despite the statements in the submissions, anecdotal evidence would not suggest that 10 year permits have prevented developments from occurring.

1231. The option presented by Fulton Hogan to remove the Policy is a valid approach, and from a Council perspective it would not impact on the ability to apply a duration that reflected the activity and the certainty around the water source. However, I do not consider that this option is perhaps the most beneficial to water users and view the notified provision to better reflect the intention to provide increased certainty wherever possible.

1232. Fonterra seek changes that add significant uncertainty to the provision. While it is seeking to increase the durations by 5 years, it also changes the text of the Policy is (a) such that, rather than permit holders subject to (a) being able to expect to get a longer term, they instead can only expect to get up to a longer term. Fonterra also considers (b) is inconsistent with Policy 5.2.13, however this is not the case as it provides for circumstances where consent holders seek replacement consents, that are subject to s124, from within an overallocated resource (i.e. not increasing the allocation from the FMU). The submitters amendments sought to (c) seem to miss the point that there are no allocation limits specified in the MEP for these types of water resources.

1233. I note that Fish and Game suggested as an alternative to the overall shorter durations it sought, all water permits could have a s128 condition. I note that this is already the case for all water permits to take water regardless of the duration consent.

1234. Just to reiterate my point above regarding the Policy signalling that there may be other factors within specific proposals that may influence duration, the practice has been for municipal and private domestic water supplies to be granted long term consents (usually 30

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<sup>77</sup> 462.050 (BRIL), 1039.037 (Pernod Ricard), 431.014 (Wine Marlborough), 457.014 (Accolade), 1218.014 (Villa Maria), 631.014 (Constellation), 473.013 (Delegat Limited), 776.008 (Indevin Estates Limited), 484.017 (Clintondale), 909.014 (Longfield Farm Limited), 548.046 (AWUG), 962.028 (MFIA), 1242.014 (Yealands Estate Limited), 715.053 (Forest and Bird) and 1238.022 (Windermere Forests Limited)

years) to reflect the nature of the activity, and this would likely be the case for water supply for Base Woodbourne, assuming that is what the NZDF is referring to. I would be hesitant to go down the track of providing durations tailored to a specific entity within the Policy.

1235. My overall recommendation with regards to the above group of submissions seeking to change the durations within this Policy, is to not amend the provision at this time. I anticipate that, given the level of interest in the submissions and further submissions, that this will be a provision debated at the hearing, therefore this recommendation may change.

### **Recommendation**

1236. It is recommended that Policy 5.3.14 is amended as follows –

*“The duration of water permits to take **or divert (consumptive)** water will reflect the circumstances of the take **or consumptive diversion** and the actual and potential adverse effects, but should generally:*

*(a) not be less than 30 years when the take **or consumptive diversion** is from a water resource:*

*(i) that has a water allocation limit specified in Schedule 1 and 2 of Appendix 6; and*

*(ii) that has a minimum flow or level specified in Schedule 3 of Appendix 6; and*

*(iii) that is not over-allocated; or*

*(b) not be more than ten years when the take is from an over-allocated water resource as specified in Policy 5.5.1; or*

*(c) not be more than ten years when the take is from a water resource that has a default environmental flow established in accordance with Policies 5.2.7 and 5.2.14.”*

1237. As a minor amendment, I am of a mind to consider the replacement of references to “water resource” in this Policy with “Freshwater Management Unit” to be consistent with the other provisions of the Plan.

1238. It is recommended that the explanation to Policy 5.3.14 is retained as notified.

### **Policy 5.3.15**

1239. Policy 5.3.15 reads as follows –

*“Require land use consent for the planting of new commercial forestry in flow sensitive areas.”*

1240. There are 18 submissions<sup>78</sup> that support Policy 5.3.15 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these 18 submissions in Appendix 1 are recorded as accepted in part.

1241. While I have made some comments throughout the following assessments as seems appropriate, Val Wadsworth has considered most of the submissions and provided his collective advice, which will follow the outlining of the individual submissions. Due to the very interconnected nature of the provisions on this matter I have set out the submissions on Policies 5.3.15 and 5.3.16, and Standard 3.3.6.2(g) first, then followed this with Val’s advice.

1242. The Nelson Forests submission (990.171) was lodged against Issue 5C, however I consider it appropriate to assess at this time with other relevant provisions. This submission seeks

<sup>78</sup> 1039.038 (Pernod Ricard), 473.033 (DOC), 509.070 (Fish and Game), 431.015 (Wine Marlborough), 457.015 (Accolade), 1218.015 (Villa Maria), 473.014 (Delegat Limited), 776.009 (Indevin Estates Limited), 484.018 (Clintondale), 909.015 (Longfield Farm Limited), 676.037 (Dairy NZ), 688.019 (J and J Hellstrom), 712.065 (Flaxbourne Settlers Association), 548.047 (AWUG), 1189.052 (Ngāi Tahu), 1201.044 (Trustpower Limited), 715.054 (Forest and Bird) and 778.051 (Irrigation NZ)



the removal of all provisions in the MEP controlling commercial forest planting and replanting in an Afforestation Flow Sensitive site. The submitter is of the view that restricting the establishment of this industry to enable another industry, which is reliant on taking and using water, to prosper is not sound or sensible resource management.

1243. This suite of provisions only limit new planting to protect existing water users. While the explanation to the Policy makes it clear that the Policy does not apply to the replanting of forestry after harvesting, it is acknowledged that a disconnect in the commercial forestry rules and definitions technically could have meant there was a consent trigger for replanting. This was not intended and there are submissions on the relevant provisions to fix this error in drafting. It is not known whether the clarification that the Policy only applies to new planting will address the submitters concerns, it is suspected not (see below), however I am comfortable that in the very limited catchments in which these provisions apply, it is appropriate to protect existing water users. It is noted that the I Esson submission (440.001) and the MPI submission (973.005) submissions seek amendment of the provisions to clarify that it does not include replanting. As already stated, this will be addressed in the applicable Rule, however as the intent of these submissions is to achieve the same outcome, they are recorded in Appendix 1 as accepted.
1244. The Nelson Forests submissions (990.173 and 990.167) seek the removal of this Policy as in its view it is not justified. The submitter states that water permits that have been granted through previous planning documents, should have been granted on a precautionary basis to protect Marlborough's environment and permitted land uses. There are other ways to manage over-allocated resources, rather than restricting the use of land. Restricting afforestation reduces the opportunity to capture a significant climate change benefit and the water yield reduction effects can be offset through storage. In fact, afforestation should be viewed as a necessary outcome of climate change mitigation. This Policy is an example of grandparenting to protect one resource user over another. There is sufficient total yield of surface water but water users are trying to grow crops that require more water than is naturally available in summer. Given there is sufficient annual yield, the abstractive user should be prepared to build storage for their summer water needs as a legitimate business cost and not impose restrictions on other land users to support the irrigators commercial interest. Resource management is not about favouring the commercial interests of one party over another.
1245. I find it a challenging proposition that existing water users are supposed to build storage to counter the potential reduction in yield resulting from the establishment of a new forest that has not happened yet, and may never happen. The comments regarding climate change are understood, however only relatively small areas of Marlborough in specific catchments are caught by these provisions. I further note that there is not a prohibition on all new forestry, but that it requires a resource consent and limits applied (see next Policy).
1246. The MFIA submissions (962.029, 962.038 and 962.199) and the Windermere Forests Limited submission (1238.023) seek the removal of this Policy as it is of the view that Policy 4.1.1, recognise the rights of resource users by only intervening in the use of land to protect the environment and wider public interests in the environment, is overridden by this Policy in that the rights of a land owner are restricted for the express purpose of protecting the reliability of supply of other resource users predominantly for their commercial gain – picking winners. The MFIA is opposed to the introduction of consent requirements for the establishment of new commercial forestry in the areas labelled Afforestation Flow Sensitive Sites. The submitter suggests that water take consents need to be reviewed regularly and water users be allowed to manage their water requirements by trading over and under requirements amongst themselves rather than render some land unusable because of this Policy. There does not appear to be good enough reasons provided to justify regulation as proposed. The provisions have the potential to make some land unusable because afforestation might be the only potential use of that land. In addition, it should be recognised that forestry, in all

forms, uses virtually no water. The N Webby submission (165.001) and Federated Farmers submission (425.057) raise similar concerns regarding limiting future use of farmland, and seek the same relief.

1247. The Environment Centre submission (1193.012) seeks the retention of the Policy but that it also applies to the replanting of existing forestry in flow sensitive areas. The submitter is of the view that plantation forests need substantial amounts of water to grow, reducing the yield available for creeks and streams, native ecosystems and other water users. With increasing drought predicted the planting of forestry will need to be more closely monitored to ensure there is also sufficient water for ecosystems and for other users. Replanting of existing forestry also needs to take account of the water needs of the wider region and requiring consent would be an opportunity to manage this. The submitter lodged a similar submission (1193.013) on Policy 15.3.16.

1248. The P Gilbert submission (1017.008) seeks the removal of the Policy as recourse should be via the law, and through the Courts if necessary. The submitter is unsettled by the idea that an owner of freehold land can be formally disadvantaged to the benefit of another. It seems un-democratic, and possibly not legal.

1249. As I understand it the submitter has not presented a realistic view of the state of the law in New Zealand. Much of the RMA does is restricting what and how activities may be undertaken on private land. The issue being addressed by this Policy is a conflict between activities on private land that may derogate from existing water permits as well as having an adverse effect on the values of the waterbodies concerned. These are the types of matters the Plan is designed to resolve or manage, therefore the Policy is wholly appropriate.

1250. The MDC submission (91.043) seeks the amendment of the Policy and the associated explanation to add reference to carbon sequestration forestry (non-permanent), this is sought to be consistent with relevant rules and Policy 5.3.16 of the Plan. I have included the specific change in text in the Recommended section below, however I acknowledge that, as a consequence of the NESPF and the MEP forestry hearing, the manner in which some activities are described may change, but the effect would be the same.

1251. The ME Taylor Limited submission (472.003) seeks for individual property owners to have the opportunity for afforest up to 10% of their property with a maximum limit of 15 hectares.

### **Recommendation**

1252. It is recommended that Policy 5.3.15 is amended as follows –

*"Require land use consent for the planting of new commercial forestry **or carbon sequestration forestry (non-permanent)** in flow sensitive areas."*

1253. It is recommended that the last paragraph in the explanation to Policy 5.3.15 is amended as follows –

*"The policy does not apply to existing commercial forestry **or carbon sequestration forestry (non-permanent)**, or the replanting of that forest following harvest, as the effects of this forestry on water yield are part of the existing environment."*

### **Standard 3.3.6.2(g)**

1254. Standard 3.3.6.2(g) (associated with Rule 3.1.6 and Heading 3.3.6) is part of a standard on a Permitted Activity rule relating to forestry. Rule 3.1.6 and all other associated standards were considered in the forestry hearing topic, however it is appropriate to consider the submissions specific to part (g) of Standard 3.3.6.2 here, as it specifically implements Policy 5.3.15. Standard 3.3.6.2(g) reads as follows (Rule 3.1.6 text provided for context) –

*“Commercial forestry planting and carbon sequestration forestry planting (non-permanent).*

*3.3.6.2. Planting must not be in, or within:.....*

*(g) an Afforestation Flow Sensitive Site;.....”*

1255. There are several submissions that support Rule 3.1.6, Heading 3.3.6 and/or Standard 3.3.6.2, and seek their retention as notified. However, I have not detailed them here so as to avoid duplication, as recommendations will have been made in relation to these submissions in the s42a report for the forestry hearing topic.
1256. While I have made some comments throughout the following assessments as seems appropriate, Val Wadsworth has considered most of the submissions and provided his collective advice, which will follow the outlining of the individual submissions. Due to the very interconnected nature of the provisions on this matter I have set out the submissions on Policies 5.3.15 and 5.3.16, and Standard 3.3.6.2(g) first, then followed this with Val’s advice.
1257. The MDC submission (91.211) seeks an exception be added to the provision for replanting as Standard 3.3.6.2(g) was not intended to apply to the replanting of previously forested land that has been harvested, as the effects on water yield are part of the existing environment. The requested amendment reflects the intention of the Standard. The specific wording change is in the Recommended section below. The DOC submissions (479.189 and 479.190), the MFIA submission (962.155) and the Nelson Forests Limited submission (990.049) seek the same relief. The PF Olsen Limited submission (149.014) similarly sought for replanting to be provided for in these catchments, and it is inferred that the Killearnan Limited submission (167.021) seeks the same as it was framed from the perspective of existing forestry. The addition of *“or carbon sequestration forest (non-permanent)”* was not in the submission lodged but is consequential change of the submission on Policy 5.3.15.
1258. The MFIA submission (962.156), the Nelson Forests Limited submission (990.050) and the Federated Farmers submission (425.524) seek the removal of 3.3.6.2(g) as in their view there is no justification for this rule. Commercial forest is not irrigated, is not an abstractive use of water, has a significant role to play in minimising the impacts of Climate Change and provides significant ecosystem services to the region when compared to other land uses that require the abstraction and irrigation of water to enable them to produce a product.
1259. The Windermere Forests Limited submission (1238.027) seeks the removal of 3.3.6.2(g) for the same reasons as expressed in its submission on Policy 5.3.15.
1260. The Warren Forestry Limited submission (282.004) lodged a submission on the whole of Standard 3.3.6.2, which did not seek any specific relief for which an assessment or recommendation can be made, although it is inferred from the submission that part (g) of this Rule is the issue for the submitter. The following are the questions and comments of the submitter, which I note Val has responded to – *“Water shed rules targeting commercial forestry: So you want to keep the hills bare so the rain runs off, and if it doesn't create a flood, someone else can suck it up and use it for intensive land use options that always pollute more than any forest use? And so why not heavily restrict native forest regeneration, as that will use rain water too? It is also very suspect scientifically. NZ was 90% forested before humans came here. Do you think all the rivers and streams dried up in the summer? Bet they did not, and there were fewer floods. Again, forests, even planted ones are a more sustainable land use than any of the irrigating land uses. Forest is the right cover for hills so drop all watershed rules”*.
1261. The Reade Family Holdings submission (318.009) seeks the removal of 3.3.6.2(g) as it questions why, in its view, the most environmentally sustainable land use activity be penalised at the expense of less sustainable activities. If commercial forest is singled out, then so must indigenous vegetation, bracken and gorse covered areas as these also intercept rainfall and even out peak flood events.

1262. The Ernslaw One Limited submission (505.028) seeks the removal of 3.3.6.2(g) or develop rules to recognise the ecosystem service provided by afforestation of upland catchment areas being attenuated flood peaks (and reduced frequency of floods of any given size, notwithstanding changes driven by Climate Change). Rework the mapping to identify the actual low-flow generation areas along the river – these are likely to be in the upper third of the river and be within approximately 50m of the river channel, plus springs (if any). The submitter provides a very detailed explanation for the relief sought and, while it has not been repeated here, it has been thoroughly considered by Val Wadsworth.

### **Recommendation**

1263. It is recommended that Standard 3.3.6.2 is amended as follows –

*Planting must not be in, or within:*

(a) ....

(g) ***an Afforestation Flow Sensitive Site, unless replanting harvested commercial forest or carbon sequestration forest (non-permanent) lawfully established;***

### **Policy 5.3.16**

1264. Policy 5.3.16 reads as follows –

*“When considering any application for land use consent required as a result of Policy 5.3.15, have regard to the effect of the proposed forestry on river flow (including combined effects with other commercial forestry and carbon sequestration forestry (non-permanent) established after 9 June 2016) and seek to avoid any cumulative reduction in the seven day mean annual low flow of more than 5%.”*

1265. There are 14 submissions<sup>79</sup> that support Policy 5.3.16 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for these 14 submissions in Appendix 1 are recorded as accepted in part.

1266. While I have made some comments throughout the following assessments as seems appropriate, Val Wadsworth has considered most of the submissions and provided his collective advice, which will follow the outlining of the individual submissions. Due to the very interconnected nature of the provisions on this matter I have set out the submissions on Polices 5.3.15 and 5.3.16, and Standard 3.3.6.2(g) first, then followed with Val’s advice.

1267. The MDC submission (91.044) seeks the amendment of the explanation associated with Policy 5.3.16 to add a reference to carbon sequestration forestry (non-permanent). This is sought to have consistency with relevant rules and wording of Policy 5.3.16 itself. I acknowledge that, as a consequence of the NESPF and the MEP forestry hearing, the manner in which some activities are described may change, but the effect would be the same.

1268. The Fish and Game submission (509.071) seeks the retention of the Policy with amendments that reword the Policy to remove “*have regard to*” to provide greater direction to plan users and decision makers. In the submitters view, this Policy is written as matters of discretion rather than a policy and while its intent is supported, the Policy needs to be rewritten to ensure it meets the principles of sound policy drafting.

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<sup>79</sup> 1039.039 (Pernod Ricard), 473.034 (DOC), 431.016 (Wine Marlborough), 457.016 (Accolade), 1218.016 (Villa Maria), 473.015 (Delegat Limited), 776.010 (Indevin Estates Limited), 484.019 (Clintondale), 909.016 (Longfield Farm Limited), 676.038 (Dairy NZ), 688.020 (J and J Hellstrom), 548.048 (AWUG), 1189.053 (Ngāi Tahu) and 778.052 (Irrigation NZ)

1269. This is a rather consistent criticism of this submitter. I have no problem with the approach taken in drafting the provisions of the Plan, but I will leave to Fish and Game's planners to argue their position for the Panel's consideration.
1270. The Forest and Bird submission (715.055) seeks the amendment of the Policy to change the text as follows – "*When considering.... and ~~seek to~~ avoid any cumulative reduction in the seven day mean annual low flow of more than 5%*". The submitter is of the view that providing for potentially more than a 5% reduction could have significant effects on in-stream biodiversity.
1271. I do not consider that the notified provision provides for a greater than 5% reduction, the fact that it says seek to avoid, suggests quite the contrary. I do not have a strong view one way or the other, however I am not persuaded to amend the provision. One concern would be if the amendment to "*avoid*" rather than "*seek to avoid*" was expected to manifest itself as a Prohibited Activity rule, which I would not support (although given the context this is likely not an issue).
1272. The MPI submission (973.006) seeks clarification of the Policy to indicate what the threshold would translate to in forestry planting for the respective sensitive areas, and to indicate whether the Council would consider that the threshold has been reached in these sensitive areas through a small number of applications for larger scale commercial forestry (i.e. whole property planting), or whether they will be looking to have only a proportion of each property planted (i.e. woodlot planting).
1273. Val Wadsworth's advice will respond to this in the main, but I note that this provision is not relevant to woodlot forestry. And, effectively it is a first in, first served situation in that, in relation to the threshold, applications will be granted on the basis of their contribution to the cumulative reduction of flow, i.e. it could be one application from a larger scale forestry operation, or it could be several applications for smaller impact afforestation.
1274. The Ngāti Kuia submission (501.015) seeks removal of the Policy as they consider it to be based on unfounded information. The effects of climate change exacerbated by deforestation and pastoral land uses should be offset by afforestation. Forestry regulates water flows in both high and low rainfall situations and the carbon sink would assist in the long-term reduction of the effects of global warming and the associated changes in rainfall patterns.
1275. The MFIA submission (962.030) and the Windermere Forests Limited submission (1238.024) seek removal of the Policy as they are of the view that stating any cumulative reduction of flow has to be less than 5% implies that the measurement and more importantly the prediction of the cumulative effects of existing afforestation on flow rates is a precise science. What this Policy is saying really is that virtually no reduction is acceptable which, given the difficulty of predicting flows in forested catchments, is unreasonable. Commercial forestry does not currently require any water other than from rain.

### **Recommendation**

1276. It is recommended that Policy 5.3.16 is retained as notified.
1277. It is recommended that the last sentence in the last paragraph in the explanation to Policy 5.3.16 is amended as follows –

*"Any reduction in flow shall be measured against the seven day mean annual low flow at 9 June 2016, being the date of notification of the MEP, and any assessment of cumulative effects should only consider commercial forestry **or carbon sequestration forestry (non-permanent)** established after 9 June 2016."*

Val Wadsworth's advice regarding the submissions of Policies 5.3.15 and 5.3.16, and Standard 3.3.6.2(g)

1278. These provisions restrict commercial forestry in certain areas where the extra water lost to the catchment is likely to cause issues for fully allocated water resources downstream where commercial reliance has already been established. These zones are shown on the Afforestation Flow Sensitive Sites overlay map in Volume 4.

1279. These areas can be summarised as;

- Wairau Valley south bank from Ferret Gully to Hillersden Stream inclusive.
- Southern Valleys from Omaka to Taylor.
- Stafford Creek above water storage dams
- Flaxbourne Catchment.

These areas total about 711km<sup>2</sup>, about 6.8% of the total Marlborough District area.

1280. The submissions tended to focus on the following matters –

*Unfair restriction on land use*

- Sometimes restrictions on individual land use are necessary to maintain the overall economic benefit to the district, something which Council is obliged to consider.

*Trees don't use water*

- Trees do “use” water.
  - A number of NZ studies have shown that conversion from tussock grassland or pasture can reduce total stream flow output from the catchments by between 35% and 80%. The biggest single factor causing flow reduction from plantation forestry is actually interception of rainfall by trees, and the subsequent evaporation, or absorption of that water by the trees before it can reach the ground. Trees also obviously take up water through their root systems which is transpired, otherwise they would die. To say, as MFIA do “*that forestry, in all forms, uses virtually no water*” is very misleading.
  - The Ernslaw One submission does actually state that forestry reduces water yield, which contradicts those submitters who say otherwise. The submission states that water yield is only reduced in areas less than with 1500mm rainfall; all of the MEP flow sensitive areas do receive less than 1500mm rainfall, so again the submission supports the science behind the Policy. The submission continues to say that if the area covered is less than 20% that the hydrological signal will be impossible to detect. That may be so, as if the effect of forestry is between 35% and 80% reduction in mean flow, then the effect of planting 20% of a catchment will result in changes of between 7% and 16% in flows, which at the lower limit to be difficult to detect. That does not mean that there should be an open policy to allow planting of 100% of the catchment. The 5% flow reduction threshold specified in the Policy would allow planting of between 6% and 14% of a catchment based on these numbers. Council has already received one very good consent application from a forestry company which took these factors in consideration, and was successful in gaining consent.
  - Note that all studies carried out have focussed mainly on quantifying the reduction in mean flows; the reduction in low flows, which is what this proposed Policy is trying to protect is likely to be greater (Dr Tim Davie, ECan, pers comm)

*Natural regeneration and climate change will have the same effects*

- Yes, regeneration will also intercept and use water, but not necessarily to the same degree. In these particular drier landscapes regeneration will never reach the height or

canopy density of plantation forestry, so the effect is likely to be significantly less. Regeneration will also take considerably longer than plantation forestry, which uses trees cloned specifically for very rapid growth.

- Likewise, climate change will eventually affect all land uses, the final effect is hard to predict at this point in time. However, this will occur over a longer period of time, all land uses will have to adapt to those changes as they manifest, as will Regional plans.

#### *Trees prevent floods*

- Trees do attenuate flood peaks to some degree, although this is mainly for small to medium floods rather than very large floods, which tend to be unchanged.

#### *Ability for small forest establishment should be exempt*

- Small scale exemptions may seem like a reasonable idea, but in some of the small catchments scheduled for protection, the cumulative effect of several landowners doing this may become significant. The adoption of this exception may also create a precedent, or opportunity for landowners to subdivide (controlled activity), to allow a proliferation of small forestry blocks, with management amalgamated for commercial purposes, possibly even followed by subsequent amalgamation of titles to create large forestry units.

#### *No zone specific submissions*

1281. All of the opposing submissions are against the general principle of the Policy, there are no specific submissions detailing the suitability of any particular area, or what impact it may have on afforestation in this area. In fact, Val wonders from the submissions whether some submitters actually realised that this only applied to specific areas. Val also notes that there have been no proposals to delete the Afforestation flow Sensitive Sites overlay map, which would be a logical inclusion in any submission.

1282. In Val's view the lack of specific discussion on individual resources detracts from the substance and weight of all of these submissions.

#### *Protection of water resources.*

1283. Each of the four zones has a specific, flow sensitive water resource situated downstream, which would undoubtedly be adversely affected by reduction in flows;

- Wairau Valley south bank streams all contribute to the groundwater resource which then emerges as two separate spring fed stream systems, the Huddleston Creek/Excell Creek/Mills Creek system, and Walkers Creek. These streams are the only two perennial streams in the mid Wairau Valley, and are valued by locals as water resources, as well as providing water for the Wairau Valley municipal supply.
- The Southern Valleys streams supply water to the Southern Valleys aquifers, which are an important resource for about 2000ha of viticulture in this area. This resource is overallocated, and is now supplemented by the Southern Valleys Irrigation Scheme, however this scheme is a Wairau River take which can be restricted, and the aquifers are the fall back option for many properties in the case of restrictions.
- Stafford Creek. This catchment was not originally included in the zones, however during the initial consultation process local landowners asked to have this area included, as they felt that their water supplies could be placed at risk. These landowners have two large dams in a relatively small catchment, and rely totally on water capture for their irrigation supply. Any reduction in yield could endanger these supplies.
- The Flaxbourne catchment has very small water supplies in a highly water short area, including two community supplies. Large scale planting in the Flaxbourne catchment would endanger the existing community schemes, and irrigation consents.

### *Suitability for forestry*

1284. At a meeting with representatives of the Forestry Industry, officials were dismissive of the suitability of Stafford Creek and most of the southern valleys for commercial forestry, so in that context MFIA submission should be neutral on these two zones, however no such discussion has been offered, nor any amendment of boundary areas suggested.

### *Recommended*

1285. Val recommends no change to the provisions, except the inclusion of the recommended change by MDC to allow replanting, as was always intended.

### Overall assessment and recommendation for Policies 5.3.15 and 5.3.16, and Standard 3.3.6.2(g)

1286. Based on my own assessment of the submissions, and the advice of Val Wadsworth, no changes are recommended other than the amendments to Policy 5.3.15 and Standard 3.3.6.2(g) as described under the Recommended headings for those provisions above.

## **Matter 4: Many water resources are fully allocated or are approaching full allocation, inhibiting the opportunity to provide for further demand for water resources.**

1287. Matter 4 includes - Issue 5D, Objective 5.4 and Policies 5.4.1 to 5.4.6 (inclusive). Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

### Issue 5D

1288. Issue 5D reads as follows –

*“Many water resources are fully allocated or are approaching full allocation, inhibiting the opportunity to provide for further demand for water resources.”*

1289. There are two submissions<sup>80</sup> that support Issue 5D and seek its retention as notified.

1290. The Fish and Game submission (509.072) seeks amendment of the issue to ensure that it reflects the environmental effects of over-allocation of water. This issue is about resources fully allocated or approaching full allocation, it is not about overallocation, which is dealt with under Issue 5E.

### ***Recommendation***

1291. It is recommended that Issue 5D, and the associated explanation, are retained as notified.

### Objective 5.4

1292. Objective 5.4 reads as follows –

*“Improve the utilisation of scarce water resources.”*

1293. There are 10 submissions<sup>81</sup> that support Objective 5.4 and seek its retention as notified.

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<sup>80</sup> 676.039 (Dairy NZ) and 715.056 (Forest and Bird)

<sup>81</sup> 462.051 (BRIL), 431.017 (Wine Marlborough), 457.017 (Accolade), 1218.017 (Villa Maria), 484.020 (Clintondale), 1201.045 (Trustpower Limited), 909.017 (Longfield Farms Limited), 1189.054 (Ngāi Tahu), 1039.040 (Pernod Ricard) and 908.005 (Lion)



1294. The EDS submission (698.028) seeks the addition of provisions that enable the use of common review clauses to assess how and if authorised takes are being used efficiently, and are of the view that an efficiency assessment should occur against clear and specified criteria applicable to the specific use and if a take is not being efficiently used then the quantum should be reduced so that it can be accessed by new users. EDS consider that this tool is also important in ensuring that water takes are not 'banked', and a holder of a water permit should be able to transfer water only if they have a take that is efficient for their given activity and have taken action to reduce consumption even further. It should not be available to those who seek a take greater than is required for their specific use specifically to trade the excess. Efficiency reviews should also be provided for on termination of a water permit for the same reasons.
1295. Much of what EDS are seeking is provided for in the provisions of Chapter 5 – efficient use tests are required for all water permits sought, including replacement consents, enhanced transfer would only be available for water users that have been through the efficiency test, and policy direction would not support the granting of water permits beyond a user's need. Water permits have s128 review conditions within them that enable reviews under certain circumstances, however it is unlikely that they would be used to require an efficient use test to be applied as, except where otherwise specified, the approach taken in the MEP is to apply the test as part of the regular consenting process. I am comfortable with this approach, and not persuaded that any changes or addition provisions are necessary to address the submitters concerns.
1296. The Fish and Game submission (509.073) seeks to retain the Objective with amendments to ensure that it refers specifically to use of water within the limits set.
1297. If the submitter is referencing the allocation limit, then the NPSFM (implemented within the MEP) requires the Council to not allocate beyond the limit, and if the submitter is referring to an individual water user not going beyond the limit in their permit, then that is a compliance issue relative to the conditions of the relevant resource consent.
1298. The Levide Capital Limited submission (907.006) makes general comments about adding policies and rules, which have been included under Objective 5.4 as the submission specifically references that provision, however the submission does not provide a clear relief sought relative to Objective 5.4. The submitter seeks to introduce the following a variety of provisions but provides no specific details. The concerns cover grandfathering of permits, which is not appropriate as under the RMA every water permit sought is a new consent and the Act also makes provision around priority and continuing water use (RMA s124); maximising resource use efficiency, which in my view, the notified provisions address; there are matters raised around the Riverlands industrial estate and the municipal water supply that are predominantly beyond the scope of the MEP; and the separation of the Council's RMA functions from its service delivery functions, which as far as I am aware is done to the extent that it is relevant and appropriate. A submission (907.001) with the same content is recorded as lodged against Objective 5.3, the above assessment applies to both submissions.
1299. The Forest and Bird submission (715.057) seeks an amendment to the explanation to the Objective to make it clear what the implications are, as it is of the view that the explanation does not really add much as a user would need to be familiar with the NPSFM to understand it.
1300. In my view, the immediately preceding paragraph (second paragraph under the Issue) explains that under the NPSFM the Council must avoid overallocation, which provides sufficient context for the reference to implications in the explanation to the Objective for those water users not familiar with the NPSFM. The NPSFM, and the provisions the Council has notified to implement it, are familiar to water users in Marlborough and have been part of the local conversation for over six years.

1301. The Dairy NZ submission (676.040) seeks the following amendment to the explanation to the Objective –

*“In a state of full allocation of water resources, and given the implications of full allocation for potential users under the NPSFM, it is essential that an alternative method to **better utilise scarce water resources** ~~gain access to water~~ is found to meet future demand.”*

The submitter considers that the explanation accompanying the objective could better reflect the wording of objective.

1302. I do not think there is anything particularly wrong with the change sort, I just do not think it is really necessary. An explanation is supposed to assist with understanding a provision, if the wording of the Objective and explanation are so similar, does it serve its purpose?

### **Recommendation**

1303. It is recommended that Objective 5.4, and the associated explanation, are retained as notified.

### **Policy 5.4.1**

1304. Policy 5.4.1 reads as follows –

*“The lapse period for water permits to take water shall be no more than two years.”*

1305. There are six submissions<sup>82</sup> that support Policy 5.4.1 and seek its retention as notified.

1306. The Federated Farmers submission (425.058) seeks that the lapse period is changed from two to five years, and that this Policy be combined with Policy 5.4.3 (lapse period for water use permits). The submitter is of the view that the Policy should give effect to Section 125(1)(a) of the RMA, and the Policies combined to be consistent with its submission that the taking and use of water should be considered in one consent.

1307. For the reasons outlined in the explanation to the Policy, it is appropriate to have a two year lapse period for water takes to ensure water is not unreasonably “locked up” and unused for an extended period at the expense of other potential users. This is a continuation of an existing policy approach that has been operating in Marlborough during the life of the operative Plans. It is not clear from the relief sought if when seeking the combination of Policies 5.4.1 and 5.4.3, and for the lapse period in Policy 5.4.1 to be increased to 5 years, the submitter is therefore seeking that the lapse period in Policy 5.4.3 is reduced from 10 years to 5 years for the same RMA alignment reasons. Federated Farmers has not submitted on Policy 5.4.3. Regardless, take and use permits are separate consents under the RMA, so there is no reason why the lapse dates need to be aligned, and the MEP recognises that there is no need to limit use permit lapse periods in the same way as take permit lapse periods.

1308. The J and J Hellstrom submission (688.175) seeks that Policy 5.4.1 also applies to forestry resource consents as if the forestry block lies fallow for more than two years, and their effect on water flow is known, then a situation of other potential users being denied access to reliable water supplies through the consent holder's inaction should be considered by the Council as grounds for non-renewal of resource consent, or as grounds for a reduction in water take, which would effectively mean a percentage reduction in forest to be replanted.

1309. I have made the assumption that this is referring to resource consents required relative to Policies 5.3.15 and 5.3.16 (and associated rules) – commercial forestry in flow sensitive

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<sup>82</sup> 249.002 (J Jones), 509.074 (Fish and Game), 548.049 (AWUG), 676.041 (Dairy NZ), 778.053 (Irrigation NZ) and 907.007 (Levide Capital Limited)

areas. As the consents granted under these provisions are land use not water permits, it would not be appropriate to include them in this Policy. If the Panel was of a mind to provide policy guidance regarding the lapse of consents pursuant to Policies 5.3.15 and 5.3.16, it is recommended that this be separate from Policy 5.4.1. However, the submitters present their concerns in the context of existing forestry and Policies 5.3.15 and 5.3.16 are only relevant to new forestry blocks. If the submitter wishes the reduced lapse periods to be applied more broadly to forestry this may be problematic given the promulgation of the NESPF, which has resulted in the Council no longer controlling plantation forestry for the most part.

1310. The Pernod Ricard submission (1039.041), Rai Mussels Limited submission (1087.004), Fonterra submission (1251.016) and the Trustpower Limited submission (1201.054) seek similar relief, that is to extend the lapse period (do not specify to what length), soften the Policy so it is “generally” no more than two years or provide the ability for applicants to seek to extended lapse periods where necessary (e.g. for new vineyard operations). The submitters are concerned that two years to implement a consent is a relatively short period of time, especially considering that infrastructure will often not be built until such time as resource consent has been granted, and that the Policy should provide for some flexibility and recognition of variations in the scale/complexity of activities. It is also possible that market demands or seasonal conditions may cause a consent to not be given effect to before the lapse date.

1311. This Policy has been in place under the operative Plans and it has not been a barrier for new resource consent applicants making a case for (and being granted) a longer lapse period, or existing water permit holders using s125 of the RMA to extend the lapse periods of the consents.

1312. The Fulton Hogan Limited submission (717.028) seeks that Policy 5.4.1 is deleted as it is of the view that it, given the potential investment riding on obtaining or not obtaining water, greater certainty of a lead time for development is required.

1313. As explained above there are options for seeking an extended lapse period or extending an existing lapse period. By specifying what is essentially a default lapse period for water takes, this Policy does give water take permit applicants greater certainty ahead of planning for their proposed development/activity.

### **Recommendation**

1314. It is recommended that Policy 5.4.1, and the associated explanation, are retained as notified.

### **Policy 5.4.2**

1315. Policy 5.4.2 reads as follows –

*“Giving effect to water permits to take and use water will be determined on the basis of the water being taken (and/or stored) for the authorised use and that the take is recorded in accordance with Policy 5.7.4.”*

1316. There are two submissions<sup>83</sup> that support Policy 5.4.2 and seek its retention as notified.

1317. The Pernod Ricard submission (1039.042) seeks deletion of the Policy as it considers it to be ultra vires as it purports to later the legal test as to whether or when a resource consent has been 'given effect to' i.e. when it is safe from lapse. There is relatively extensive case law on this matter, and there is no basis in the RMA for plan provisions that seek to modify it. The Policy states that the water must actually be taken under the consent (i.e. the consent must

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<sup>83</sup> 548.050 (AWUG) and 778.054 (Irrigation NZ)

be relied upon), rather than some other steps towards giving effect to the consent, which case law indicates may be sufficient in some circumstances.

1318. This Policy was designed to give some certainty and guidance to consent holders, as the matter of when a resource consent has been given effect to has been a significant issue of contention during the life of the operative Plans. On review it is accepted that, while intended to be helpful, the Policy may not be appropriate and therefore I support the relief sought to remove it from the MEP. It is also noted that, subsequent to the notification of the MEP, the MDC resource consent department have developed, and had approved in the courts, conditions precedent for water takes that ensure that even though water may have been taken, if the meters and certification have not occurred the consent will lapse.

1319. The Federated Farmers submission (425.059) seeks that the explanation is amended to state that, in the context of staged developments, given effect to means when water is taken for the first stage. The Fish and Game submission (509.075) seeks that the Policy is amended to ensure that any water taken is used for the use authorised and not wasted. The Rai Mussels Limited submission (1087.005) seeks there to be some reference to what proportion of water taken would constitute a take permit being given effect to. As a consequence of my view that this Policy is not appropriate to retain, I do not support the amendments sought by the submitters.

### ***Recommendation***

1320. It is recommended that Policy 5.4.2, and the associated explanation, are deleted.

### **Policy 5.4.3**

1321. Policy 5.4.3 reads as follows –

*“The lapse period for water permits to use water shall be at least ten years.”*

1322. There are 16 submissions<sup>84</sup> that support Policy 5.4.3 and seek its retention as notified.

1323. The Te Ātiawa submission (1186.043) seeks that the Policy is amended to change the 10 year lapse period to two years as they are of the view that take and use permits should have the same lapse period lest the water allocation become less efficient and flexible than it currently is.

1324. As already expressed, relative to Policy 5.4.1, take and use permits are separate consents under the RMA, so there is no reason why the lapse dates need to be aligned. And specific to the submitters concern, water allocation is ultimately tied to the water take permit not the water use permit so reducing the lapse period under this Policy would not address the matters raised.

1325. The Fulton Hogan Limited submission (717.029) seeks that Policy 5.4.3 is deleted as it is of the view that it may be appropriate to have a lapse date for both a take and use of water to extend out 10 years (I note that under Policy 5.4.1 the lapse date for takes is proposed to be limited to 2 years), however the RMA provides for this and therefore the plan does not need specific policy direction addressing this.

1326. The default lapse period under the RMA (s125) is five years. In my view, it is appropriate to provide direction through policy that it is appropriate for lapse periods for water use permits to exceed the default and be set at a minimum of 10 years. This is particularly relevant with

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<sup>84</sup> 1039.043 (Pernod Ricard), 1242.015 (Yealands Estate Limited), 462.052 (BRIL), 431.018 (Wine Marlborough), 1218.018 (Villa Maria), 473.016 (Delegat Limited), 776.011 (Indevin Estates Limited), 778.055 (Irrigation NZ), 907.008 (Levide Capital Limited), 509.076 (Fish and Game), 484.021 (Clintondale), 1201.046 (Trustpower Limited), 909.018 (Longfield Farm Limited), 676.042 (Dairy NZ), 631.015 (Constellation) and 548.051 (AWUG)

the introduction of the enhance transfer process, in which use permits may be held but only exercise at a future time when water may become available for transfer or when a particular crop is planted that requires more water to be obtained through a transfer.

### **Recommendation**

1327. It is recommended that Policy 5.4.3, and the associated explanation, are retained as notified.

#### **Policy 5.4.4**

1328. Policy 5.4.4 reads as follows –

*“Enable access to water that has been allocated but is not currently being utilised by individual water permit holders through the transfer of water permits.”*

1329. There are 20 submissions<sup>85</sup> that support Policy 5.4.4 and seek its retention as notified.

1330. The D Hulbert submission (272.001) seeks amendments to the provisions to differentiate between water permits that can be transferred between properties and those that must remain with properties, and to put controls around who can hold permits, who permits must be transferred to with regards to lease arrangements and requirements around who should be required to sign off applications.

1331. Many of the issues raised are not matters that the Council/MEP can control as they are determined under the RMA. Any person has a right to apply for a water permit for to use water on any land, that does not give them any rights of access. Any person may apply to transfer a water permit to another party (within the constraints applied in the RMA/MEP), the Council cannot dictate who a consent holder has to transfer their permit to, it is a private matter. There is no need to manage water transfers where it is a consequence of the sale of property and the permit is changing in name only between the seller and buyer of the land, in this regard the Council acts only as a postbox to receive and record that the transfer has been made. Who is an affected party in relation to a water permit application is determined at the time of the application and in accordance with relevant sections of the RMA, the determination is based on the specific details of the activity and is appropriately dealt with through the consenting process. The RMA and the MEP provided management and constraints around transfers, however the arrangements for transfers beyond the scope of these provisions are between landowners, leaseholders, water permit holders, land users and so on and are private arrangements for which appropriate independent advice should be sought.

1332. The Fonterra submission (1251.017) seeks retention of the Policy 5.4.4 but the addition of further guidance on the criteria that will be applied to determining the acceptability of permit transfers. The submitter is of the view that the Policy could go further by setting out the criteria council will use to determine the acceptability of permit transfers as that would be consistent with Policy B3 of the NPS-FM.

1333. In my view, the relief sought is addressed in the subsequent Policy 5.4.5, which the submitter may not have picked up on as it lodged no submission on that provision. I have recommended acceptance of the submission point on the basis that the relief sought is already provided for with the overall provisions.

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<sup>85</sup> 479.035 (DOC), 1039.044 (Pernod Ricard), 1242.016 (Yealands Estate Limited), 462.053 (BRIL), 457.019 (Accolade), 431.019 (Wine Marlborough), 1218.019 (Villa Maria), 473.017 (Delegat Limited), 776.012 (Indevin Estates Limited), 778.056 (Irrigation NZ), 907.009 (Levide Capital Limited), 484.022 (Clintondale), 909.019 (Longfield Farm Limited), 676.043 (Dairy NZ), 717.030 (Fulton Hogan Limited), 1087.006 (Rai Mussels Limited), 1124.003 (S MacKenzie), 769.024 (Horticulture NZ), 631.016 (Constellation) and 548.052 (AWUG)

1334. The Federated Farmers submission (425.061) seeks to amend the Policy to limit transfers to within FMUs or the same catchment/aquifer, and to ensure the effects of transfers are adequately mitigated.
1335. The explanation to Policy 5.4.4 and Policy 5.4.5(a) already make it clear that these provisions are only enabling water transfers within FMUs. Taking water from a different site as a consequence of a transfer will still require the transferee to hold or obtain a water permit to take water from a specific location, therefore the interference effects of the water take will be assessed through the consenting process. I have recommended acceptance of the submission point on the basis that the relief sought is already provided for with the overall provisions.
1336. The J and J Hellstrom submission (688.021) does not seek any specific relief for which an assessment and recommendation can be made but notes an expectation that the recipient of any transfer would then be responsible for monitoring, and for all other conditions attached to a permit for water take. I can confirm that once the water allocation is transferred, the transferee will be operating under a water permit in the same way as if the permit was unrelated to a transfer, and therefore they would be required to fully comply with the conditions of their consent.
1337. The Trustpower Limited submission (1201.055) seeks an amendment to the Policy to specifically acknowledge that the transfer of water permits may occur on either a permanent or temporary basis. In my view, this is unnecessary as it is explicitly stated in Policy 5.4.5.
1338. Seven submissions<sup>86</sup> were received seeking the removal of this Policy for the following reasons –
- So that water permits do not become a tradable asset.
  - Water allocated that is surplus to the needs of the owner should be determined by the controlling authority with due process.
  - This Policy assists the practice of water being traded on an open market to the financial benefit of the existing permit holder without consideration of the loss in public benefit as a result. This is an unconstitutional behaviour whereby the public good is eroded for private economic gain.
  - This would further reduce the reliability of water and hasten the enforcement of low flow cut offs which in turn, will likely result in lower flows in treasured waterways than currently experienced. If this policy is to be approved, the low flows of waterways will need to be lifted to preserve instream values.
  - Although the system may be considered efficient and effective, it is not considered equitable in its current form.
  - The Council has insufficient information on which to make informed decision on water allocation and robust techniques in place to accurately monitor actual water takes.
  - Use it or lose it should apply, within a timeframe, in order to prevent water banking.
  - The water transfer regime should be removed from the plan and consent holders reduced to the amount necessary to provide for their (intended) land use.

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<sup>86</sup> 214.001 (B Mclauchlan), 1017.009 (P Gilbert), 501.017 (Ngāti Kuia), 509.077 (Fish and Game), 1186.024, 1086.044 and 1186.100 (Te Ātiawa) and 1189.055 (Ngāi Tahu)

- Oppose the creation of a water right whereby the right to take and use of water becomes a commodity that can be bought and sold. If water is not to be used by a consent holder then it should remain for the benefit of the whenua and the mauri of that waterbody.
- Water is a public resource and a sacred taonga that consent holders do not pay for. It is transient and finite and is not a resource that should be exploited to the maximum economic potential.
- The provisions to implement this Policy and Policy 5.4.5 will be introduced via a Plan Change, however it is considered that the full framework is required to form a complete view on this proposal.
- Transfers of unused allocation can provide for an efficient means to manage over allocated resources, however, in the absence of detailed provisions relating to the implementation of this system it is difficult to understand what measures will be proposed to ensure that the system is managed appropriately and does not create perverse and unanticipated outcomes.

1339. The transfer of water permits is provided for under the RMA, and it is an existing well utilised enablement of that legislation. Where transfers involve the Council, either through basic changes of permit holder as a result of landowner/leaseholder change, or through a consent process for transfers to another site, there is no aspects of those functions that involve financial arrangements. There is clear anecdotal evidence that financial arrangements are made between parties outside of RMA/Council processes, however the Council has no part in those arrangements. This situation will be no different as a result of the notified provisions.

1340. The views expressed with regards to private profit from a free public resource are clearly understood, however to prevent the transfer of water permits would require intervention at a national level. That the Policy B3 of the NPSFM states – *“By every regional council making or changing regional plans to the extent needed to ensure the plans state criteria by which applications for approval of transfers of water take permits are to be decided, including to improve and maximise the efficient allocation of water”*. The Council is required to implement the NPSFM, therefore to prevent transfers would mean the Council was not meeting its obligations.

1341. Where the notified provisions will have an impact is on enabling transfers, under very specific circumstances, to occur more effectively and efficiently for resource users. This may result in more transfers of water, and potentially more of a “market”. However, the purpose of the notified enhanced transfer provisions is to enable further growth and development in the region where water allocations are largely fully or overallocated. To be clear, it is only proposed to enable the transfer of water as a Permitted Activity in circumstances where environmental limits have been established in the MEP and permit holders have been through a reasonable use test. This approach does not enable people to gain water permits when they have no purpose for the water or for an amount greater than their needs, simply to profit through transferring to other parties.

1342. The transfers would be of water already allocated within sustainable limits, therefore the transfers would not lower flows in waterways more than already anticipated within the limits in the MEP. If the limits are not considered appropriate, that is a separate matter from the issues of transfers.

1343. The enhanced transfer process requires an electronic system to be developed in order for it to be able to function. This system was not available at the time of notification and, as a regional rule in a notified Plan has effect on notification, the Council was unable to include

the rule that would implement Policies 5.4.4 and 5.4.5 in the MEP at the time of notification. However, Policy 5.4.5 clearly provides the criteria which would form the basis of the Permitted Activity and associated Standards, and effectively states as much in the explanation to that Policy. If the rule that was to be added to the Plan in a future process was to deviate from what is laid out in the relevant Policies, then those Policies would also have to be amended and would then form part of the plan change.

1344. On the basis that the notified provisions reflect the outcome of the review process, implement the NPSFM and that the concerns raised regarding trading are for the most part matters to be addressed at a national level, I have not recommended the acceptance of this group of submission points.
1345. The Federated Farmers submission (425.446) seeks that a new Restricted Discretionary Activity rule is added to the MEP as the transfer of a water permit is not provided for in the rules.
1346. It would appear that the submitter has not read the explanations to Policies 5.4.4 and 5.4.5, or appreciated that they provide for a Permitted Activity rule to be added to the MEP through a future Plan Change. On this basis I have not assessed this point any further, however if evidence ahead of the hearing indicates Federated Farmers does wish to pursue the addition of a Restricted Discretionary Activity as part of this current process, I will assess the submission further at that time.

### **Recommendation**

1347. It is recommended that Policy 5.4.4 is retained as notified.

### **Policy 5.4.5**

1348. Policy 5.4.5 reads as follows –

*“When an enhanced transfer system is included in the Marlborough Environment Plan to enable the full or partial transfer of individual water allocations between the holders of water permits to take and use water, this will be provided for as a permitted activity where:*

- (a) the respective takes are from the same Freshwater Management Unit;*
- (b) the Freshwater Management Unit has a water allocation limit specified in Schedule 1 of Appendix 6;*
- (c) the take is not from the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or the Riverlands Freshwater Management Unit;*
- (d) metered take and use data is transferred to the Council by both the transferor and the transferee in real time using telemetry;*
- (e) the allocation is authorised via a water permit(s) applied for and granted after 9 June 2016;*
- (f) the transferee holds a water permit to take water if their abstraction point differs from the that of the transferor; and*
- (g) the transferee holds a water permit to use water.*

*The duration of the transfer is at the discretion of the transferor and transferee and can be on a temporary basis or for the remaining duration of the water permit.”*

1349. There are 18 submissions<sup>87</sup> that support Policy 5.4.5 and seek its retention as notified.

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<sup>87</sup> 479.036 (DOC), 1039.045 (Pernod Ricard), 1242.017 (Yealands Estate Limited), 462.054 (BRIL), 457.020 (Accolade), 431.020 (Wine Marlborough), 1218.020 (Villa Maria), 473.018 (Delegat Limited), 776.013 (Indevin Estates Limited), 961.002 (Chamber), 778.057 (Irrigation NZ), 907.010 (Levide Capital Limited), 484.023 (Clintondale), 909.020 (Longfield Farm Limited), 676.044 (Dairy NZ), 1124.004 (S MacKenzie), 631.017 (Constellation) and 548.053 (AWUG)



1350. The MDC submission (91.046) seeks that the Omaka Aquifer FMU is added to (c) of this Policy as it was omitted in error. There are no further submissions specifically opposing this correction.
1351. The Federated Farmers submission (425.060) seeks to add an additional matter to the Policy – “(h) *the effects of the transfer on other consented takes.*” Similarly, the EDS submission (698.029) seeks to add an additional matter – “*the transferee’s intended use is separately assessed and subject to consent to ensure that the environmental effects of that use are assessed and appropriately controlled.*” Federated Farmers are concerned that the transfer may have perverse outcomes on both other resource users and on the environment as there is nothing in this Policy that requires assessment of the effects on existing users or on groundwater and surface water, and EDS states that different uses will have different effects.
1352. In a similar vein, the Trustpower Limited submission (1201.056) seeks an addition to the Policy that the transfer is not from downstream of a hydro-electric power station to upstream of that station as they are concerned that a potential future transfer of a water permit allocation downstream of a hydro-electric power scheme to a site upstream may derogate the allocation of water afforded to the hydro-electric power scheme.
1353. In all cases the water to be taken will have been through a resource consent process that will have assessed the effects of the abstraction on other users and the environment. Where a transferee is using the transferors existing take, then this will have been done under the original water permit, and where the transferee is using a different take point, they will have had to obtain their own take permit in order to participate in the enhanced transfer system. If a hydro-electric power scheme operator is determined to be an affect party for a new take permit upstream of its operation, then they would have the ability to participate in the consenting process at that time. Similarly, in all instances the water user (transferor or transferee) will have had to obtain a water permit to use water that will have been fully assessed in order to participate in the transfer under these provisions. So, the concerns of the submitters are addressed, just not as part of this Policy, which is appropriate.
1354. The Fulton Hogan Limited submission (717.031) seeks removal of the reference to enhanced transfer system from the Policy, in essence creating a Permitted Activity for all transfers. The submitter is of the view that the ability to transfer water between users is important to ensure water allocation remains efficient, however the term 'enhanced transfer system' is not defined in the Plan. Further, as the mechanism is something that will be introduced at a later stage, it is not possible for Fulton Hogan Limited to fully understand what an enhanced transfer system is and how it may affect it.
1355. I have addressed the later introduction of the rules in my assessment of the submissions on Policy 5.4.4, so I will not repeat that again here but it is equally relevant. With regards to a definition, I am of the view that the enhanced transfer system is adequately described in the provisions and that trying to narrow it down to a definition that had value would not be of assistance. If there are truly gaps in understanding, it would be preferable to reconsider the wording of the explanations to Policies 5.4.4 and 5.4.5. The most substantive part of this submission is the amendment sought to provide for all transfers as a Permitted Activity. This would be of great concern and is not supporter as this could have unacceptable effects on the environment, other users and allocative efficiency (controlling allocation and addressing overallocation). To enable an activity to be a Permitted Activity requires a high level of confidence that compliance with any standards will adequately manage the effects expected, and I am not convinced by this submission that this would be the case if the relief sought was accepted.
1356. The Rai Mussels Limited submission (1087.007) seeks the removal of (e), which states “(e) *the allocation is authorised via a water permit(s) applied for and granted after 9 June 2016*”, and the amendment of (g) to read – “(g) *the transferee holds a water permit to use water*”

***applied for and granted after 9 June 2016***". The submitter is of the view that part (e) means there will be an inability to trade water permits under existing consents, which is likely to restrict optimum use of currently allocated water because the requirement for holders of existing consents to obtain new use and take consents before they can trade their water rights may be a significant barrier to any such trade.

1357. With regards to (e), the submitter is correct however, while an existing consent holder could not use the Permitted Activity provisions to transfer water, they could apply for a resource consent, as is currently the process. It is probably fair to say that the matters raised by the submitter with regards to existing consent holders with large volumes of unrequired water seeking to "trade" that water, was a scenario that the WAWG were mindful of when developing these provisions restricting the circumstances where transfers could be done as a Permitted Activity. I support the provisions as notified, including the requirement in (e) that the allocation is authorised via a permit granted post-notification of the MEP, which means that an efficient use test will have been applied.

1358. The MFIA submission (962.039) and the Nelson Forests Limited submission (990.174) seeks to ensure this Policy does not impact on the establishment and replanting of commercial forests, particularly in in flow sensitive sites, and the deletion of the Policy if it has this impact. In the submitters view this Policy perpetuates the unfair allocation of water based on passive (interception of rainfall) vs active (irrigation) uses. No transfer system should be allowed if it is to allow for the same amount or more abstractive use when afforestation is controlled.

1359. This Policy is enabling the movement of water already allocated, and that has been through an efficient use test, and the effects have already been taken into account. The provisions restricting afforestation are limited to new planting, where the uptake of water from the relevant catchment is a new activity for which the effects have not previously been considered. Except for the submitters perception of inequity between water management relative to irrigation dependant farming versus forestry, I fail to see the connection between their concerns and this Policy.

1360. The Fish and Game submission (509.078), the Ngāti Kuia submission (501.018) and the Ngāi Tahu submission (1189.056) seek the deletion of Policy 5.4.5 for the same or similar reasons as they sought the removal of Policy 5.4.4, so I have not repeated my assessment here, but it is equally relevant.

### ***Recommendation***

1361. It is recommended that Policy 5.4.5, and its associated explanation, are retained as notified with the exception of part (c) of the Policy, which is recommended to be amended as follows

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*"(c) the take is not from the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit, **Omaka Aquifer Freshwater Management Unit** or the Riverlands Freshwater Management Unit;"*

### **Policy 5.4.6**

1362. Policy 5.4.6 reads as follows –

*"Provide water users and the community with daily water use information for fully allocated water resources."*

1363. There are nine submissions<sup>88</sup> that support Policy 5.4.6 and seek its retention as notified.

1364. The Fish and Game submission (509.079) seeks retention of the Policy with amendments to ensure that the community are provided with information on the daily water use of all water resources and not only those that are fully allocated.

1365. The purpose of Policy 5.4.6 is to provide users with the necessary information to facilitate the uptake of enhanced transfers to improve the utilisation of scarce resources. Method 5.M.4 appropriately addresses the submitters concerns as it states more generally that water users will be provided with information on their water use relative to their water permit allocation.

### ***Recommendation***

1366. It is recommended that Policy 5.4.6, and its associated explanation, are retained as notified.

## **Matter 5: The over-allocation of water resources creates a risk that the cumulative abstraction of water from the resource will exceed the safe yield, creating significant adverse effects on natural and human use values and threatening the reliability of existing water uses.**

1367. Matter 5 includes - Issue 5E, Objective 5.5 and Policies 5.5.1 to 5.5.5 (inclusive). Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

### **Issue 5E**

1368. Issue 5E reads as follows –

*“The over-allocation of water resources creates a risk that the cumulative abstraction of water from the resource will exceed the safe yield, creating significant adverse effects on natural and human use values and threatening the reliability of existing water uses.”*

Issue 5E only had submissions in support so there is no assessment of submissions and no need for this paragraph, however the Issue is the starting point for the provisions that respond to it, so I have included it here as a reference point for the reader.

### **Objective 5.5**

1369. Objective 5.5 reads as follows –

*“Phase out any over-allocation of water resources.”*

1370. There are five submissions<sup>89</sup> that support Objective 5.5 and seek its retention as notified.

1371. The Fish and Game submission (509.081) seeks retention of the Objective with amendments that provide a specific timeframe for eliminating the over-allocation of water by 2030.

1372. In my view, this is unnecessary as timeframes, which are notably shorter than the submitter suggests, are already included in the MEP. As set out in Policy 5.5.1, there are five FMUs that are deemed to be over-allocated – the Wairau Aquifer FMU, the Benmorven FMU, the Brancott FMU, the Omaka Aquifer FMU and the Riverlands FMU. The explanation to Policy

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<sup>88</sup> 1039.046 (Pernod Ricard), 457.021 (Accolade), 431.021 (Wine Marlborough), 1218.021 (Villa Maria), 778.058 (Irrigation NZ), 484.024 (Clintondale), 909.021 (Longfield Farm Limited), 676.045 (Dairy NZ), and 548.054 (AWUG)

<sup>89</sup> 479.037 (DOC), 688.022 (J and J Hellstrom), 273.002 (B James), 370.001 (K Saville-Smith and B James) and 1189.057 (Ngāi Tahu)

5.5.4 states that the approach to over-allocation for the Wairau Aquifer and Riverlands FMUs is anticipated to resolve over-allocation by 2025. Policy 5.5.5 and its explanation explain that for the Benmorven, Brancott and Omaka Aquifer FMUs over-allocation will be addressed by way of s128 reviews, and Policy 5.2.25 states any s128 reviews required as a result limits set in the MEP will be done within 24 months of the Plan becoming operative.

1373. If the Panel considers the “defined timeframe” (required by NPSFM Policy B6) relating to the resolution of over-allocation under Policy 5.5.5 to be too ambiguous, the following sentence could be before the final sentence in the explanation – *“By 2025 it is expected that the total allocation authorised by resource consent will reflect the allocation limit.”* This would also reflect a similar statement within the explanation to Policy 5.5.4. I have added this as a recommendation under Policy 5.5.5 to record the option for the Panel’s consideration.
1374. The Dairy NZ submission (676.047) seeks retention of the Objective but an addition to the explanation, which would state – *“In accordance with s131 of the RMA the Council will consider shall have regard to the matters in section 104 and to whether the activity allowed by the consent will continue to be viable after the change.”* The submitter recognises that, where over-allocated, allocation should be scaled back in order to provide for community values, however is of the view that the explanation to the Policy should also make note of the consideration that will be given to the value of existing investment in any decision on whether to scale back an individual consent holder’s allocation.
1375. Potentially the relief requested could be added to explanation to Policy 5.5.5 as that Policy will be implemented by way of a s128 review, however in my view, it is not appropriate to add to the explanation to the Objective. With regards to potentially adding it to Policy 5.5.5, the addition is unnecessary as the content is already prescribed in the RMA relative to a s128 review.
1376. The Lion submission (908.006) seeks amendment of the Objective and supporting Policies to provide a more appropriate and considered method for reducing over-allocation over time. The submitter generally supports the intent to reduce over-allocation over time, however, it has concerns with the Policy approach as far as it relates to the reduction of existing allocation. It is of the view that any potential reduction of existing water allocation should take into account the specifics of any existing allocation, rather than simply seeking to reduce allocation proportionally by irrigated area.
1377. The submitter’s substantive issue seems to be with the approach taken to over-allocation within Policy 5.5.5. With regards to Objective 5.5, no specific amendment is described and one cannot be inferred from the content of the submission – on this basis the submission relative to Objective 5.5 is recommended to be rejected.
1378. The Pernod Ricard submission (1039.047) seeks retention of the Objective provided the allocation limits in Schedule 6 are properly derived, and the phase out occurs in a fair way. The submitter appreciates that this Objective is required *“to give effect to”* Policy B6 of the NPSFM, however it is necessary to ensure that allocation limits are derived through a sufficiently robust process.
1379. On the basis that the allocation limits in the MEP have been *“properly derived”* (and the submitter has not identified where, in its view, they have not) and the phasing out of allocation has been developed with fairness in mind, the concerns of the submitters to the extent that has been expressed, are addressed in the MEP as notified. On this basis the submission point has been recommended for acceptance, however should the submitter provide further information in evidence identifying allocations that they do not view as being properly derived, or aspects of the provisions addressing over-allocation that it deems to be unfair, then this recommendation may change.

1380. The G Barnett submission (1258.010) does not seek clear relief but the submission appears to be most relevant to this Objective. The submitter is of the view that water utilisation could be improved by offering an amnesty period where over-allocated water take permits could be reduced or surrendered at little or no cost to the holder. On the basis that any permit holder can relinquish any or all of their water permit at no cost at present, and no specific relief was sought, no recommendation is made for this submissions point.
1381. The Forest and Bird submission (715.065) seeks retention of the Objective but the addition of policy direction for the review of consents in any catchment where allocation has unanticipated environmental effects. In the submitters view it is critical that any over allocation is identified and stopped as soon as possible.
1382. The over-allocated FMUs have been identified (Policy 5.5.1) and, where there are anticipated to be adverse environmental effects, over-allocation is to be resolved by way of review (Policy 5.5.5). In my view, the relief sought is already provided for in the MEP, so on that basis I have recommended the submission is accepted in the same vein as a submission seeking retention of provisions as notified. If there are unanticipated environmental effects in the future within the over-allocated FMUs covered by Policy 5.5.4 then, despite policy direction, the door is not closed to the Council doing s128 reviews if deemed necessary.
1383. The Federated Farmers submission (425.064) seeks the addition of a new Policy under Objective 5.5 that includes 10 different water management approaches. The submitter is of the view that a suite of policies (only one has been provided) should be introduced to address the phasing out of over-allocation in water resource units (assume mean FMUs). Federated Farmers have drawn upon Waikato Regional Council's policy for resolving over-allocation and are of the view that this would allow for a number of methodologies to be employed, depending on the individual circumstances.
1384. Having considered the 10 different parts of the proposed new policy, in my view, most are covered in one way or another in the Plan as notified and therefore the proposed Policy is unnecessary. The submitter has not identified concerns with the approach taken in the MEP to addressing over-allocation and appears to have just plucked a Policy from another Council to address an issue with the proposed water management regime, which they have not identified.

### **Recommendation**

1385. It is recommended that Objective 5.5, and the associated explanation, are retained as notified.

### **Policy 5.5.1**

1386. Policy 5.5.1 reads as follows –

*“Recognise that the following Freshwater Management Units are over-allocated with respect to limits established in the Marlborough Environment Plan:*

- (a) Wairau Aquifer;*
- (b) Benmorven, Brancott and Omaka Aquifer; and*
- (c) Riverlands.”*

1387. There are four submissions<sup>90</sup> that support Policy 5.5.1 and seek its retention as notified.

1388. There are four other submissions on Policy 5.5.1, three of which only seek information rather than any specific relief. I have provided details of those submissions below and Peter Davidson has considered the submissions and provided information and advice accordingly.

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<sup>90</sup> 479.038 (DOC), 509.082 (Fish and Game), 778.059 (Irrigation NZ) and 715.066 (Forest and Bird)

The advice is applicable to all of the submissions, therefore I have not responded to each submission individually. Val Wadsworth contributed to the advice on the Omaka River FMU.

1389. The Horticulture NZ submission (769.025) seeks write the Policy to read as follows –

*“Recognise that the following Freshwater Management Units are under pressure and undertake a process to identify limits for these FMU’s that incorporate all identified values”* (it is assumed from the text that parts (a), (b) and (c) would remain).

The submitter states it recognises that over-allocation needs to be phased out under the NPSFM, however it is concerned as to how the limits for the Wairau and Omaka Aquifers have been set and the impacts on the full range of values in those FMU’s, and it is sought that the limits set be reassessed through a robust process to ensure that all values are provided for.

1390. The NZDF submission (992.013) seeks information rather than specific relief. The submitter has requested clarification and confirmation of the status of allocations within the Omaka River FMU as the *"Aquifer Safe Yield Review"* (Peter Davidson, MDC, 2012) indicated that this FMU is over-allocated but it is not included in Policy 5.5.1.

1391. The P Neal submissions (331.006, and 331.003, 331.004 and 331.005 on Policies 5.5.2, 5.5.3 and 5.5.4) seek information rather than specific relief. The submitter wants scientific proof that the Wairau Aquifer FMU is over-allocated as he does not agree that is the case based on his experience irrigating land on the Wairau Plain for over 40 years and not seeing his wells drop more than 1 metre at the height of a summer drought.

1392. The Pernod Ricard submission (1039.048) does not seek relief but *“reserves its position - it may need to oppose this classification subject to further information being provided”*. The submitter is concerned that the evidence for these FMUs being over-allocated has not been provided and there is no economic impact assessment of how 'claw back' will affect their existing operations in the Wairau Aquifer, Brancott and Omaka Aquifer FMUs.

1393. On consideration of the matters raised, and the information sought, the Councils hydrologists have provided the following advice –

Wairau Aquifer, Brancott and Omaka Aquifer FMUs (Peter Davidson)

- The degree of allocation relative to safe yield or limits was determined in different ways for each of the 3 aquifer systems mentioned in the submission.
- A common factor affecting the definition of safe yield across all 3 aquifer systems mentioned is the excessively high grape irrigation rate meaning it is necessary for MDC to establish demand based on potential abstraction rates, which may only be approached in some drier seasons.
- For the Southern Valleys suite of aquifers, the experiences of the 1997/98 and 2000/01 droughts demonstrated that consented abstraction exceeded the annual recharge with very large falls in well levels of up to 15 metres. The issue of falling well levels was compounded by two droughts in close succession.
- MDC subsequently established a relationship between metered groundwater abstraction and the seasonal fall in groundwater level for each of the main Southern Valleys Aquifer systems. This relationship was used to derive an annual volumetric limit based on maintaining groundwater levels above a minimum to avoid drying up wells or land subsidence. As part of this exercise MDC were fortunate to have relatively good metered water use records dating back to 1984 in some cases.

- The Wairau Aquifer situation is complicated by the lack of universal metering meaning MDC are unable to precisely derive a cause and effect relationship similar to that for the Southern Valleys aquifer suite yet.
- The Wairau Aquifer also differs physically from the Southern Valleys aquifers by being much larger; having a constant source of recharge and higher porosity meaning it is more resilient to the stress of drought or seasonal abstraction.
- These factors mean the symptoms of aquifer strain are less detectable and transient, especially for groundwater users like submitter P Neal located close to the Wairau River recharge source which moderates changes in well levels.
- Landowners close to the headwaters of groundwater fed springs like Murphys Creek have undoubtedly observed changes over the last 40 year period.
- A review of Wairau Aquifer safe yield involving computer model forecasts by AquaLinc Research showed the WARMP limit of 4m<sup>3</sup>/second would result in significant declines in spring flows and falls in well levels.
- The WARMP limit of 4m<sup>3</sup>/second was not conservative enough and based on rudimentary computer model simulations in 1988 and the correspondingly low levels of knowledge of Wairau Aquifer dynamics compared to today.

#### Riverlands FMU (Peter Davidson)

- The allocation limit for the Riverlands Aquifer was based on computer model simulations of the response to varying levels of groundwater abstraction to avoid seawater intrusion, the key management issue for the area.
- Given the consequences if seawater intrusion were to occur on private wells and the groundwater supplies to the Cloudy Bay Business Park/Riverlands Industrial Estate, MDC were conservative in setting the aquifer volumetric limit.
- The lack of impacts to date will largely reflect the excessively high MDC grape allocation guideline and the fact that not all water has been taken up yet for food or wine processing.

#### Omaka River FMU (Peter Davidson and Val Wadsworth)

- As a consequence of submissions on this and other provisions, the boundaries of this FMU were reviewed and Council hydrologists are satisfied that the FMU as mapped in the notified MEP reflect the latest hydrological information regarding water flow direction and boundaries.
- The Omaka River FMU is not considered over-allocated as it still has C Class water available and the Class A is not over-allocated relative to the Plan limit. It is acknowledged that the Class A may be overcommitted based on its reliability compared to other FMU's and that the Class A allocation should be smaller if an equivalent level of reliability was to be achieved. The Omaka River FMU limits were defined by MDC 25 years ago based on limited flow record.

1394. As mentioned above, three of the submissions not seek specific relief but sought information, hopefully the above assists them with their understanding on this provision.

1395. The other submission, Horticulture NZ (769.025), which did seek specific relief is not supported as in the Council's view it held sufficient information to set allocation limits for

these FMUs in response to the NPSFM, and did therefore not seek to put in place a Progressive Implementation Plan (NPSFM Policy E1) to delay setting the limits. It is also important to remember that the MEP is the product of a review of two existing operative Plans, not a first generation plan for which there had never been any limits. The water allocation and use provisions of the MEP are with product of an extensive community process involving both all consented water users through at least two public consultation processes, and the more focused work of a Water Allocation Working Group over a period of approximately three to four years.

### **Recommendation**

1396. It is recommended that Policy 5.5.1, and the associated explanation, are retained as notified.

### **Policy 5.5.2**

1397. Policy 5.5.2 reads as follows –

*"No new water permit will be granted authorising additional abstraction from the water resources identified in Policy 5.5.1 after 9 June 2016."*

1398. There are four submissions<sup>91</sup> that support Policy 5.5.2 and seek its retention as notified.

1399. The Federated Farmers submission (425.062) seeks replacement of the Policy entirely with the following new wording –

*"Except as provided for by S124 of the Act, no new water permit will be granted authorising additional abstraction from water resources which as been identified as over-allocated. The council may grant permits pursuant to S124 provided the amount of water being sought is reasonable for its intended use, and is the same or lesser rate and volume of the permit already held."*

1400. The submitter acknowledges that Council must give effect to NPSFM, which requires there to be no further over-allocation a fresh water resource, however, it is of the view that where people have legitimately gained consents to take water, there should be the ability for those permits to be renewed, provided they are for the same or lesser instantaneous rate and volume.

1401. The explanation to the Policy is explicit that it does not apply to applications for replacement consents under the same circumstances, and Rule 2.6.1, which gives effect to Policy 5.5.2, is explicit that the prohibition does not apply to applications affected by s124 of the RMA. In my view, the concerns of the submitter are already clearly addressed in the provisions as notified and it is not appropriate to replace the Policy wording as sought.

1402. The Pernod Ricard submission (1039.048) seeks clarification that the Policy does not apply to reapplication. As explained above, in my view, this is adequately dealt with in both the Policy explanation and the implementing Rule. The submitter also seeks for the Rule implementing the Policy to have non-complying status, not Prohibited Activity status, and on that basis have reworded the Policy as follows –

*"Generally avoid granting new water permits for additional abstraction (i.e. not including applications to continue taking and using groundwater or surface water) from the water resources listed in Policy 5.5.1, so long as they remain over-allocated."*

1403. The submitter is of the view that the activity should be non-complying, as opposed to prohibited as the Policy reads as if no new water permits will ever be granted for these

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<sup>91</sup> 479.039 (DOC), 509.083 (Fish and Game), 778.060 (Irrigation NZ) and 715.067 (Forest and Bird)



FMUs, whereas new takes should be granted if the current over-allocation is able to be addressed.

1404. The wording of Rule 2.6.1 is such that consent cannot be sought that would cause the water quantity allocation limit of any FMU to be exceeded, on this basis if over-allocation is resolved an application would not be prevented from being made as a result of this Rule. In my view, the submitter's concerns are resolved through the existing wording of the notified MEP provisions.

1405. The Fulton Hogan Limited submission (717.032) seeks an amendment of the Policy to change "abstraction" to "allocation" to ensure non-consumptive takes are not caught by the Policy. The submitter advises that around the country, it abstracts water on a non-consumptive basis. For example, abstracting surface water for aggregate processing, then returning the water via sediment control ponds. As drafted Policy 5.5.2 would not allow further non-consumptive water abstractions in over-allocated resources even if no additional stress was placed on the values attributable to the resource.

1406. As this Policy only relates to the FMUs identified in Policy 5.5.1, which are all aquifer based, it is unlikely that activities of the nature described by the submitter would be affected by this provision. Possibly non-consumptive takes from unconfined areas of aquifers may be acceptable but Peter Davidson advises they would not be acceptable in confined aquifers (or confined parts of aquifers). On this basis, subject to further information from the submitter on their activities in a Marlborough context, I am not comfortable supporting the relief sought.

### **Recommendation**

1407. It is recommended that Policy 5.5.2, and the associated explanation, are retained as notified.

### **Policy 5.5.3**

1408. Policy 5.5.3 reads as follows –

*"Avoid any additional diversion of water from over-allocated water resources for use on land in other freshwater management units."*

1409. There are three submissions<sup>92</sup> that support Policy 5.5.3 and seek its retention as notified.

1410. The Federated Farmers submission (425.063) seeks the following amendment to Policy 5.5.3 –

*"~~Avoid~~ **Require appropriate supporting information before considering** any additional diversion of water from over-allocated water resources for use on land in other freshwater management units."*

1411. The submitter acknowledges the concerns with diversion of water from over-allocated water resources for use on land in other freshwater management units, however it is of the view that the Policy does not allow for flexibility and that all proposals for diversion will need to go through their own test to ensure they are robust.

1412. The use of the word "avoid" is purposeful as it signals that the Policy will be given effect to by way of a Prohibited Activity rule, which it is – Rule 2.6.2. The drafters of these provisions were mindful of the significance of prohibiting an activity, which is evident in the Policy only being applied to the overallocated FMUs identified in Policy 5.5.1 that are experiencing adverse effects and which require overallocation to be addressed as soon as possible, i.e. those listed in Policy 5.5.1(b). In the circumstances of these three FMUs, prohibiting the

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<sup>92</sup> 479.040 (DOC), 778.061 (Irrigation NZ) and 715.068 (Forest and Bird)

transfer/transportation of water out of those FMUs for use in another FMU is entirely appropriate.

1413. The Fish and Game submission (509.084) seeks retention of the Policy with amendments to provide stronger direction around the diversion of water and to ensure that no new permits for the diversion of water will be granted in over-allocated water resources similar to the wording of Policy 5.5.2.
1414. As Rule 2.6.1 gives effect to Policy 5.5.2 and Rule 2.6.2 gives effect to Policy 5.5.3, and there is not really a stronger management response than a Prohibited Activity, the notified provisions seem to already address the submitters concern. It is possible that the submitter is concerned that the Rule does not include all over-allocated FMUs but that is not clear from their submission so no further assessment is made. On the assumption that the provisions do not satisfy the submitter in some way, the submission point is recommended for rejection as no amendment is necessary based on the information provided.
1415. The AWUG submission (548.055) seeks confirmation from that there will be no additional allocation of water to land outside the Awatere FMU. The submitter is of the view that the Awatere FMU Class A and B water allocations are currently over-allocated and therefore any unutilised water allocation freed-up through the replacement of expiring resource consents or lapsing water permits needs to off-set the over-allocation until such time as that is resolved. Further, they note that, in the future there will be additional demand for water to irrigate land located in the Awatere River FMU.
1416. The specific relief sought is not clear, however to prevent any allocation of Awatere FMU water being used on land outside of that FMU would in essence require the Awatere FMU to be added to Policy 5.5.1 as an over-allocated resource, and Rule 2.6.2 would have to be amended to add the Awatere FMU to the provision. This is a very significant change, as stated above not even all the over-allocated resources in Policy 5.5.1 have been included in Rule 2.6.2, as it was recognised that this level of prohibition should only apply when there are adverse effects on natural and human use values as a result of the current water management regime.
1417. I note that water allocation freed-up through the replacement of expiring resource consents or lapsing water permits will be used to off-set any over-allocation on paper if it exists, and no changes are required to any provisions of the MEP in order for this to happen.
1418. It is understood that the AWUG wish to prevent any new water allocations being transported and used on land outside of the Awatere FMU so any water that becomes available can be used by future users within that FMU only. It is a challenging proposition to prevent the allocation and use of water, if it is within limits, on the basis of a future development that is not known and may, or may not, come to fruition. It also raises the question as to how this approach could be taken in the Awatere FMU and not also applied elsewhere as the same argument could be made in probably most FMUs. If the submitter presents further evidence on this aspect of the transportation of water between FMUs, it will be an interesting concept for the Panel to consider, however I would not support an argument that was promoted on the basis of this restriction being appropriate in relation to the Awatere FMU possibly being over-allocated.
1419. The W Lissaman submission (255.020) seeks an exception for properties and existing schemes that cross FMU boundaries as he questions the impact of the Policy on individual properties and/or on group schemes where FMU boundaries are crossed. The Policy (and associated Rule) as notified only apply to the Omaka Aquifer, Benmorven and Brancott FMUs, and it is my understanding that there are no existing water permits within those FMUs that transport water for use on land out of those Units. On this basis the submitters concerns would not be realised, and no exception is necessary.

### **Recommendation**

1420. It is recommended that Policy 5.5.3, and the associated explanation, are retained as notified.

### **Rule 2.6.2**

1421. Rule 2.6.2 is a Prohibited Activity rule that implements Policy 5.5.3, and read as follows –

*“Take of water from the Omaka Aquifer Freshwater Management Unit, Benmorven Freshwater Management Unit or the Brancott Freshwater Management Unit for use on land in another Freshwater Management Unit”.*

1422. The Fish and Game submission (509.257) seeks that the Prohibited Activity Rule be extended to cover all water takes from FMUs for use in another FMU.

1423. This is a very significant change and the submitter has provided no information as to why such an action is warranted. Given the submitter's purpose under legislation, it can be assumed that its motives do not reflect those of the AWUG, i.e. to preserve future available water for sole use on land within the FMU from which it is abstracted. On this basis, it would be reasonable for evidence to be provided to explain the motivation for the relief sought, and what concerns are sought to be addressed through such a significant change.

### **Recommendation**

1424. It is recommended that Rule 2.6.2 is retained as notified.

### **Policy 5.5.4**

1425. Policy 5.5.4 reads as follows –

*“Progressively resolve over-allocation of the Wairau Aquifer Freshwater Management Unit and Riverlands Freshwater Management Unit by ensuring water permits granted after 9 June 2016 to continue taking water from the Freshwater Management Units reflect the reasonable demand given the intended use.”*

1426. There are four submissions<sup>93</sup> that support Policy 5.5.4 and seek its retention as notified.

1427. The D Hulburt submission (5.001 and 5.002 on Policy 5.5.5) seeks a rewording of the Policy to recognise the different water of different crops, different varieties within those crops, and different production methods.

1428. In a sense this Policy already does this as it references reasonable demand for the intended use, and the explanation points out the relevance of Policies 5.7.1 to 5.7.6 in terms of achieving efficient water use. It is my understanding from the reasons for the relief sought, that the submitter's concerns are with the reasonable use provisions and this Policy only really to the extent that it links to those provisions as a basis for resolving over-allocation. For this reason, I will not assess this submission further here, except to note that I do not support the rewording sought for the reasons expressed. I will however, reference back to this submission when considering the submissions on reasonable use.

1429. In two further submissions (314.001 and 314.002) D Hulburt seeks wording that puts greater emphasis on phasing back of water consents to those large corporate vineyards in drier arid lands that are more greatly responsible for our current water resource conditions.

1430. If I understand the submissions correctly, the submitter is of the view that these water resources are over-allocated because large corporate vineyards convinced the Council to

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<sup>93</sup> 479.041 (DOC), 778.062 (Irrigation NZ) 961.003 (Chamber) and 715.069 (Forest and Bird)

grant them water permits to irrigate vineyards in unsuitable and unsustainable areas, and therefore they should be targeted for reduction ahead of other permit holders. There is more than one reason why I do not support this view, however I am particularly surprised to hear the area within the Wairau Aquifer FMU being described as an unsuitable and unsustainable area for viticulture given the proliferation and, as I understand it success, of vineyards on the Wairau Plains. If it was appropriate to consider some prioritisation of reduction as suggested, it is not clear from the submission what specific criteria would be used to identify which water permit holders fitted the submitter's description of a "large corporate vineyard", or how a s128 review to reduce certain types of viticultural activities as described by the submitter could be justified in that process.

1431. The Fish and Game submission (509.085) seeks retention of the Policy with amendment to clarify that the Policy applies to water takes with consents prior to 9 June 2016, and that reference is made to the reasonable use policy sought by Fish and Game. The submitter is also of the view that the Policy needs to be amended to reflect the total water allocated from the catchment by 2030.

1432. In my view, the Policy clearly applies to existing water take permits as they are replaced on expiry after 9 June 2016, I am not clear what amendment in this regard is necessary. With regards to the reasonable use policy sought by the submitter, I am not clear on what this is so seek that reference to be clarified at the hearing. Finally, the reference to 2030 does not appear to be logical given the explanation states that over-allocation is anticipated to be resolved by 2025.

1433. The EDS submission (698.030) seeks amendment of the Policy as follows –

*"Progressively resolve over-allocation of the Wairau Aquifer Freshwater Management Unit and Riverlands Freshwater Management Unit by ensuring water permits granted after 9 June 2016 to continue taking water from the Freshwater Management Units reflect the reasonable demand **and efficient practice as assessed using a common assessment tool or criteria** given the intended use."*

The submitter is of the view that takes should be determined by efficiency of use as determined using common criteria or a common tool as this ensures that applications are assessed fairly and equally using a common standard. MDC will need to develop efficiency standards with industry and stakeholder input for activities where ICALC cannot be used.

1434. It is quite clear in the water management provisions in Chapter 5 that a reasonable use test will be used to manage water allocation and use. While it is acknowledged that this is more straight-forward for irrigation water use, the approach of only granting an amount water required meet the reasonable needs of any activity is signalled through policy direction. Outside of irrigation, it may not be appropriate to use a common assessment tool as non-irrigation activities will have less commonalities, therefore in my view, the amendment sought is neither necessary or appropriate.

1435. The Horticulture NZ submission (769.026) seeks retention of the Policy but seeks that a reasonable use test for all water takes to ensure water is taken is reasonable for the intended use in all FMU's.

1436. This is already the case with the notified provisions of the Plan, this Policy just happens to be talking about how over-allocation will be addressed in these two specific FMUs. On the basis that the relief sought already exists in the MEP, the submission is recommended for acceptance.

1437. The Pernod Ricard submission (1039.050) seeks retention of the Policy subject to amendment in relation to 'reasonable demand'. The submitter states that it has water takes

in both the Wairau Aquifer and Riverlands FMUs but it is not clear to it how allocation in the specified FMUs will be different to allocation more generally, given Policy 5.3.7 states that allocation should be on a '9 out of 10 years' basis. The submitter understands the need to resolve over-allocation, but wishes to ensure that allocation limits (and thus the identification of 'over allocated' catchments) are identified using a robust and transparent process. It also has concerns about the way in which 'reasonable demand' is calculated.

1438. The submission is more seeking further information specifically in relation to this Policy, as the matters around reasonable demand are dealt with in other provisions (on which Pernod Ricard have also lodged submissions). The allocation of water for irrigation use in these FMUs is not any different than any other FMU, unless it is a new allocation of water that has not been previously held. The replacement of an existing permit, most likely as a result of expiry, will go through a reasonable use assessment as part of the consent process. The basis of allocation relative to Policy 5.3.7 will apply to all permits sought for irrigation, and represents an improvement on the '8 out of 10 year' basis under the WARMP. On the basis that the submitter's concerns about reasonable demand are dealt with elsewhere, the notified wording of the Policy is appropriate and this submission seeking amendment of this Policy is not supported.

### **Recommendation**

1439. It is recommended that Policy 5.5.4, and the associated explanation, are retained as notified.

### **Policy 5.5.5**

1440. Policy 5.5.5 reads as follows –

*“Resolve over-allocation of the Benmorven, Brancott and Omaka Aquifer Freshwater Management Units by reducing individual resource consent allocations on a proportional basis, based on the total allocation available relative to each individual's irrigated land area, or equivalent for non-irrigation water uses (excluding domestic and stock water). The reductions will be achieved by reviewing the conditions of the relevant water permits to reallocate the available allocation fairly across all relevant users.”*

1441. There are four submissions<sup>94</sup> that support Policy 5.5.5 and seek its retention as notified.

1442. The D Hulbert submission (5.002) has been addressed above under Policy 5.5.4 as the relief sought was the same, the discussion in submission point 5.002 did cover one additional matter with regards to the use of s128. The submitter is of the view that under the RMA the power to change conditions (of granted permits) are wide and flexible and there is no limit on how far a consent could be subtracted from or qualified by new conditions, however s128 does not allow consents to be terminated therefore amendments to conditions cannot prevent the activity for which consent has been granted. He further states MDC is prohibited from creating conditions that would result in the collapse of a business operating in accordance with a granted consent.

1443. It is my understanding that during the drafting of the MEP the matters raised were considered and guidance provided that the approach to be taken in using s128 to resolve overallocation in the Southern Valleys FMUs was acceptable. If the Panel share the submitters concerns it may be appropriate to seek independent legal advice. The effects on the environment of not being able to implement these provisions may be significant, and would impact on the Council meeting its obligations under the NPSFM.

1444. The EDS submission (698.031) seeks the amendment of the final sentence of the Policy as follows – *“The reductions will be achieved by reviewing the conditions of the relevant water*

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<sup>94</sup> 479.042 (DOC), 778.063 (Irrigation NZ) 509.086 (Fish and Game) and 715.070 (Forest and Bird)

~~permits. to reallocate the available allocation fairly across all relevant users~~". The submitter states that over-allocation means that the amount of water that can be taken from the water body does not leave sufficient water behind for the water body to remain healthy, and in this situation the water gained through proportional reductions is not taken to be reallocated to water users but to be allocated to the environment.

1445. The submitter has misunderstood the Policy, the "freed-up" water gained through the proportional reductions is not reallocated, the actual MEP allocation will be allocated fairly across all relevant water users. The water gained through this process will be used to address over-allocation, i.e. it will be "allocated to the environment".

1446. The Horticulture NZ submission (769.027) seeks the amendment of the Policy to, instead of the approach prescribed, apply a reasonable use test to all takes in the Benmorven, Brancott and Omaka Aquifer FMU's and undertake a review of the limits for the aquifers to ensure that they reflect all values, and then if additional reductions are required apply them according to the priorities set out in Policy 5.3.1. In the submitters view, this Policy seeks to reduce over-allocation by reducing allocations on a proportional basis. Prior to any reductions a reasonable use test should be applied so that the any future proportional reductions are fairly applied.

1447. A reasonable use test will be applied, however this Policy signals that that will be insufficient to address over-allocation in these FMUs and that further reductions are necessary. The limits in these FMUs have already been reviewed and the MEP reflects the outcome of that process. The consequence of the submitter's relief sought would be a substantial delay in the application of management to resolve over-allocation, in my view, based on the expert advice of Peter Davidson this would not be acceptable.

1448. The following advice and information has been provided by Peter Davidson on the matter –

- The 1998 and 2001 droughts demonstrated the Southern Valleys suite of deep aquifers were grossly over-allocated and this is a generally accepted fact.
- It resulted in the establishment of the Southern Valleys Irrigation Scheme (SVIS) and a special management zone including dry weather limits for permitted water users.
- All replacements of existing water permits must go through a reasonable use test, which is improving practice with time, but will not be sufficient on its own to achieve a sustainable level of allocation.
- Although aquifer levels have recovered, while unsustainable levels of consented allocation exist, the potential is there for aquifer levels to fall to unacceptably low levels again if SVIS is unavailable for extended periods.
- Most groundwater is used for irrigating vineyard so there is limited opportunity for efficiencies between competing industries or crop types.

1449. The Dairy NZ submission (676.048) seeks the amendment of the Policy to add "*the type of intended use*" as a basis for the reduction, along with irrigated area. The amendments sought to the explanation are as follows –

*"This policy sets out the means by which the over-allocation of groundwater from the Benmorven, Brancott and Omaka Aquifer FMUs will be resolved. A reduction in the allocation that has been granted resource consent, based on reallocating the total allocation available relative to each individual's irrigated land area **and current use and reasonable water requirements**, is considered to be the most equitable means of reducing total allocation of water from these FMUs. **This recognises already established land use***

***reasonable water use needs and associated significant investment that may accompany this existing land use.*** *Where water use is for non-irrigation purposes, such as winery or commercial use, the proportion of the reallocation will be calculated to be relative to irrigation water permit holders."*

1450. The submitter is of the view that this Policy seeks to resolve over-allocation by reallocating according to land area, and it agrees this is an equitable approach, however a clause should be added clarifying that any reduction in allocations will take account of reasonable use for that land use type, not just the absolute area of land.
1451. The relief sought would defeat the purpose of the Policy. If the reduction was based on land area and reasonable use then it would in essence be the same approach Policy 5.5.4 takes to addressing over-allocation in the Wairau Aquifer and Riverlands FMUs. The point of this Policy is that reduction in that manner alone would be insufficient to address over-allocation for the Benmorven, Brancott and Omaka Aquifer FMUs.
1452. The Pernod Ricard submission (1039.051) seeks the retention of the Policy subject to providing further guidance in relation to how reductions will be determined. The submitter is concerned about the way in which water will be reallocated "*fairly across all relevant users*" and it is of the view that in reviewing consents and determining any reductions, priority should be given to irrigation over other uses of water (excluding domestic and stock water), and existing investment (i.e. primary production land uses that are fully operational).
1453. I am not clear why the submitter would be of the view that irrigation should take priority over other uses as businesses reliant on water for say, commercial or industrial activities, potentially could be impacted as significantly by the reductions as irrigators. With regards to existing investment, I can sympathise with this view, however given that there have been no new allocations, or even consents granted for increased irrigated area, in these FMUs for over 10 years, it seems unlikely that there will be significant numbers of water permits, if any, sitting around that have not been fully utilised due to developments not being completed. On the basis of the information provided in the submission, I do not support the relief sought.
1454. The Villa Maria submission (1218.060) seeks the amendment of the Policy to exclude winery processing in the same way domestic and stock water are excluded. The submitter is of the view that that the Policy fails to recognise that there are water uses within the FMUs that are solely reliant upon reliable access to groundwater, such as the Villa Maria winery. There are no readily available alternate supplies of water of sufficient quality to be useable within the winery and the Policy must acknowledge this.
1455. Peter Davidson's advice was sought in relation to this submission as any water user not caught by this Policy potential impact on resolving over-allocation, and/or the effect of this Policy on other water users. Peter Davidson advises the following –
- If the Villa Maria winery were not restricted it may not make a lot of difference to solving the over-allocation issue due to the small component of their groundwater take (100 m<sup>3</sup>/day) originating from the Benmorven Aquifer versus the Southern Springs source;
  - It would mean all other consented irrigators would be restricted slightly more severely than they would otherwise be the case;
  - Other consented non-irrigation water users in these FMUs could justifiably say they are just as dependent the FMUs as the Villa Maria winery, and the consequences of their being restricted or cut-off are also dire to their business or activity.
1456. The application of this Policy was considered at depth through the WAWG and the conclusion was reached that all water users (except domestic and stock) should be treated the same. It was recognised that the alternative of other sources may or may not be an issue, but also that the Council provides land zoned for industrial purposes, which includes a

suitable water supply. It really came down to an issue of fairness, and the question of whether users such as wineries should have an advantage, not only above other users but at the detriment of other users who would have to be restricted further. From an equity perspective, outside the potential issue of scope, it would not seem fair for only wineries to be given priority over other non-irrigation water users in similar circumstances.

1457. The Fulton Hogan Limited submission (717.033) seeks deletion of the Policy and the reliance on Policy 5.5.4 or Policy 5.7.2 to give effect to Policy B6 of the NPS Freshwater. The submitter has concerns that the Policy provides no certainty to resource users, specifically in relation to non-irrigation takes and that reallocating water fairly needs to consider far more than just the relative irrigated area, for example, length of time water has been taken and used, the level of investment that relies on a take and use of water, and the overall environmental, cultural, social and economic benefit derived from the take and use.

1458. The matters raised in this submission have already been addressed as a consequence of other similar submissions, particularly Dairy NZ and Villa Maria, and the relief sought as it would not resolve over-allocation in an effective manner for these particular FMUs.

### ***Recommendation***

1459. It is recommended that Policy 5.5.5 is retained as notified.

1460. It is recommended that the explanation to Policy 5.5.5 has the following sentence added immediately before the final sentence of the explanation –

*“By 2025 it is expected that the total allocation authorised by resource consent will reflect the allocation limit.”*

## **Matter 6: The taking of groundwater in proximity to rivers can individually or collectively reduce flows in the rivers.**

1461. Matter 6 includes - Issue 5F, Objective 5.6 and Policies 5.6.1 and 5.6.2. Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

### **Issue 5F**

1462. Issue 5F reads as follows –

*“The taking of groundwater in proximity to rivers can individually or collectively reduce flows in the rivers.”*

Issue 5F only had submissions in support so there is no assessment of submissions and no need for this paragraph, however the Issue is the starting point for the provisions that respond to it, so I have included it here as a reference point for the reader.

### **Objective 5.6**

1463. Objective 5.6 reads as follows –

*“Ensure that the taking of groundwater does not cause significant adverse effects on river flow.”*



1464. There are three submissions<sup>95</sup> that support Objective 5.6 and seek its retention as notified.
1465. The Fish and Game submission (509.088) seeks retention of the Policy with amendments that ensure that it reflects that the taking of groundwater does not cause limits to be breached.
1466. The submission references the Policy not the Objective, does not identify how the Objective does not ensure limits are not breach (which would be a “*significant adverse effect*”) and does not provide any specific alternative text that would satisfy the submitters concern. Therefore, there is not sufficient information in this submission to understand the relief sought at this time, and it is recommended not to be accepted.
1467. The EDS submission (698.032) seeks the focus of the Objective to be on ensuring limits are met, as in its view it may be that in a specific FMU groundwater takes make a greater proportion of the overall take than surface water takes. This is acceptable provided the overall take means that flow and water quantity stay at the limit set in the MEP.
1468. It is not entirely clear but it appears that the submitters concerns are addressed in the subsequent Policy 5.6.1, which makes it clear that environmental flows/levels will be applied to all groundwater takes in river dominated FMUs. Earlier policies in the Chapter are specific to the setting of these flows/levels, their purpose and application.
1469. The Forest and Bird submission (715.072) seeks retention of Objective 5.6 but the addition of a new objective that sets out the expectations for effects of groundwater abstraction on instream flows where the change in flow is less than significant, but there could still be significant adverse effects on instream biodiversity.
1470. I understand the submitters concerns as the Objective references significant adverse effects on river flows rather than natural values, such as biodiversity, however I am of the view that the Objective does still cover the concerns raised. The explanation shows that a significant adverse effect on river flows is an effect that does not support natural and human use values. That is to say, if there were significant adverse effects on instream biodiversity, then the impact of activities on river flows would be considered significant too. Peter Hamill has also considered this submission and concurs with my assessment.
1471. The G Lowe submissions (338.004 and 338.006) seek the reallocation of irrigation permits to ensure water levels stay at original/natural levels to retain habitat and aesthetic values on all waterways, and strict monitoring of bores to ensure these levels are maintained. The submitter supports all moves to retain natural flows in all waterways across the Springs area, and is of the view that Murphy's Creek (upper reaches) would be an ideal monitoring site for these waterways as it very quickly indicates a change in levels. She states that more than 40 years on this site has provided her with a long-term overview of activity and the impact of irrigation.
1472. Peter Davidson has considered this submission and his advice is as follows –
- Reallocating water permits to reduce the stream depletion effect would be very effective at targeting direct stream depletion effects, however it would be an extreme approach involving complicated land owner/water permit equity and legal issues to implement.
  - Given the interconnected nature of the aquifers feeding the springs, it would not address the indirect cumulative stream depletion effect that would contribute a larger share of the longer a drought lasted.
  - The MDC recognised the benefits of restricting water permit holders closest to the spring headwaters by applying them to the spring sector first in the MEP.

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<sup>95</sup> 479.043 (DOC), 688.023 (J and J Hellstrom) and 1189.058 (Ngāi Tahu)

- The relative regional benefits of restricting water permit holders further away from springs will be tested as part of MDC model simulations for setting ecological thresholds for the Recharge Sector of the Wairau Aquifer as part of the Progressive Implementation Programme under the NPSFM.

1473. Peter Hamill has also considered this submission and his advice is incorporated in his assessment of the submissions below on Policy 5.6.2.

1474. The submitters support for this Objective is acknowledged, however it is not entirely clear if any changes are sought to the Objective, on the basis that there are no amendments sought, and the matters raised by the submitter are focused on under Policy 5.6.2, the recommendation for this submission is recorded in Appendix 1 as accept.

1475. The Lion submission (908.007) seeks amendment of the Objective and supporting policies to provide a more appropriate and considered method for managing significant adverse effects on river flows as, while the submitter generally supports the intent to avoid significant adverse effects on river flow, it has concerns with the approach of restricting groundwater takes when bore levels fall.

1476. There is absolutely no information in this submission to explain why the submitter is concerned about restricting takes on the basis on environmental levels in bores, what would be the alternative they seek or how adverse effects on natural and human use values would be either not appropriately protected by the notified regime or be better protected by a different regime. On the basis that there is no information in the submission to justify any amendments, the relief sought is not supported.

1477. The Pernod Ricard submission (1039.052) seeks retention of Objective 5.6, subject to amendments to policies and rules to address its concerns, as the submitter supports this Objective in principle but is concerned that the subsidiary provisions go further than necessary to achieve it, by inappropriately assuming all taking of groundwater is in fact stream depleting.

1478. On the basis that the support for this Objective is not absolute, and it is not for me to determine whether other changes that may be made to other unspecified provisions satisfy the submitters proviso, the recommendation for this submission is recorded in Appendix 1 as reject.

### **Recommendation**

1479. It is recommended that Objective 5.6, and the associated explanation, are retained as notified.

### **Policy 5.6.1**

1480. Policy 5.6.1 reads as follows –

*“Unless there is an identified aquifer dominant Freshwater Management Unit, all water within a catchment will be managed as a surface water resource. This means that the minimum flow, management flow and allocation limit established for the river dominant Freshwater Management Unit will also apply to groundwater takes.”*

1481. There are five submissions<sup>96</sup> that support Policy 5.6.1 and seek its retention as notified.

1482. The Federated Farmers submission (425.065) seeks an amendment to the Policy to add the following sentence at the end of the provision – **“A transition period is provided so that**

<sup>96</sup> 479.044 (DOC), 1189.059 (Ngāi Tahu), 509.089 (Fish and Game), 778.064 (Irrigation NZ) and 715.073 (Forest and Bird)

***those with existing groundwater takes can organise alternative sources.***" The submitter supports the recognition of groundwater and surface water as a combined system, however this should only apply where there is a high degree of hydraulic connectivity between the ground and the surface water resource. The submitter views this as a change in the way the resource is managed in Marlborough, therefore the Council needs to make provision for a transition period for existing groundwater takes, so that resource users can organise alternate water sources.

1483. While the organising of management regimes into FMUs is new as a consequence of the NPSFM, the actual approach to managing Marlborough's water resources in this way is not. For example, groundwater takes via subsurface infiltration trenches in the Wairau Valley have historically been managed as Wairau River surface water takes and bore abstractions in the vicinity of Flaxbourne River have been managed as Flaxbourne River surface water takes. It is more than likely that if consent holders of the nature covered by this Policy do not already have limits linked to river management regimes, that they will only have those limits applied when seeking a replacement of an expiring consent. The exception would be if there were unacceptable adverse effects anticipated that warranted more immediate action. In my view, for the reasons discussed, I do not support the relief sought.
1484. The Pernod Ricard submission (1039.053) seeks the deletion of this Policy or amendments to address its concerns. The submitter considers approach in this Policy is not appropriate based on the evidence, as not all groundwater is hydrologically connected to surface water ("stream depleting") and the Policy therefore fails to achieve Objective 5.1. The submitter is of the view that if the Plan is to adopt this approach to managing groundwater, it should be expressed as a starting point, or rebuttable presumption, so that an applicant for a groundwater take consent can demonstrate that the proposed take is not stream depleting and should not be subject to minimum flows; and/or groundwater takes are exempt, or partially exempt, from minimum flow restrictions if they are over a specified depth (e.g. 50 meters).
1485. Peter Davidson and Val Wadsworth have both considered this submission and are not clear if the submitter understands that aquifer dominated FMUs are not affected by this Policy. As explained by Peter, the Council have split water resource into those that have storage in the form of groundwater to offset seasonal shortfalls in rainfall/runoff and buffer the effects of consented or permitted water use, and those that do not, which are treated as rivers. And, based on this classification, if a water user is within an FMU with negligible storage in the form of aquifers, then then consented or permitted water use will have a direct effect on channel flow and should attracted the surface water environmental threshold. The effect may be delayed in the case of larger catchments such as the Wairau River but it will occur during long periods of recession when there is low rainfall and high demand.
1486. Peter further notes that the alternative is to micro-manage water resources and create many ore FMUs, however we do not necessarily have the hydrological knowledge to go down to that scale and the management implications or costs would be significant not only on the regulator but resource consent holders too. I note that the NPSFM requires limits to be set for all FMUs, and all of the regions water resources have to be within an FMU, therefore the approach suggested by the submitter would not meet the obligations of the NPSFM.
1487. The Fish and Game submission (509.089) supports this Policy and is recorded as such, however did raise a concern, that was also mentioned in advice by Val Wadsworth, about Plan users being able to differentiate between aquifer dominated FMUs and river dominated FMUs. If the Panel held concerns of this nature, then perhaps some further notation within Appendix 6 could be considered.

## **Recommendation**

1488. It is recommended that Policy 5.6.1, and the associated explanation, are retained as notified.

### **Policy 5.6.2**

1489. Policy 5.6.2 reads as follows –

*“Manage the potential for groundwater takes in proximity to spring-fed streams on the Wairau Plain to cause a recession of the position of headwaters of the streams by establishing aquifer minimums below which the taking of groundwater must cease.”*

1490. There are four submissions<sup>97</sup> that support Policy 5.6.2 and seek its retention as notified.

1491. The G Lowe submissions (338.001, 338.002, 338.003 and 338.005) all mirror her submission on Objective 5.6, and therefore the assessment of that submission (338.006) and the responses to other submissions below apply to the submitters submissions on this Policy.

1492. The J Jones submission (249.003) is of a view that more data and understanding is required on the complex relationship between the Wairau Aquifer and the Spring system before limits are set, and that all Wairau Aquifer FMU groundwater users must take responsibility for maintaining minimum aquifer levels/Spring flows, not just Spring sector users. Similarly, the Constellation submission (632.001) seeks a review of the three Spring sector FMUs minimum levels as it is of the view more information needs to be provided on how the limits have been set and more analysis needs to be undertaken to determine if those limits are correct. These submissions mirror similar ones on Appendix 6 below, please read the assessment on those submissions as the response applies here also.

1493. Peter Hamill has considered these submissions and notes that the spring fed streams of Marlborough’s Wairau Plain all derived their base flow from ground water recharge and as a result they are reliant on sustained groundwater levels for their existence. Peter advises that the spring fed streams are important habitats for aquatic flora and fauna, and scientific assessments of the ecology of the spring-fed streams on the Wairau Plain undertaken show that the majority of the watercourses on the Wairau Plain were medium or above, in terms of ecological value. This is further discussed in the assessment of the submissions on Appendix 6 below.

1494. Peter Davidson has also considered these submissions and advises that the minimum/management level limits should not be removed from the MEP as the volumetric limit on abstraction of groundwater from the Wairau Aquifer is not precise enough to avoid issues from developing in some summer seasons or localised aquifer areas, especially near boundaries where there may be concentrated abstraction or sensitive features (seawater/springs). Restrictions are essential to complement the regional scale volumetric limit to address smaller scale temporal and spatial variability that could stress the Aquifer.

1495. Further comments in the assessment of submissions on Appendix 6 below are also relevant to Policy 5.6.2, as the environmental limits in the Appendix give effect to the Policy. The NPSFM requires the Council to set limits, which include allocation limits and minimum flows/levels. Where the Council identified that there was insufficient information available to set limits within a certain timeframe (December 2015), there was a provision in the NPS (Policy E1) to establish a Progressive Implementation Programme (PIP) to do a staged implementation. In terms of limit setting for water quantity (as opposed to water quality), limits were set for all FMUs except for the Wairau Aquifer FMU. However, within the Wairau Aquifer limits were able to be established for some areas to protect against seawater intrusion, and the recession of the headwaters of the spring-fed springs. Based on the

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<sup>97</sup> 479.045 (DOC), 509.090 (Fish and Game), 778.065 (Irrigation NZ) and 715.074 (Forest and Bird)

advice of Messrs Hamill and Davidson, and the lack of any information in the submissions to demonstrate how the limits set will not achieve their intended purpose, I am comfortable that Policy 5.6.2 is appropriate and enables the Council to meet its obligations under the NPSFM.

1496. In the Pernod Ricard submission (1039.054) the submitter reserves its position and states it may be necessary for it to oppose this Policy as it is of the view that it does not know what the new level of reliability will be. As the submitter seeks no relief at this time for which an assessment of recommendation can be made, none is recorded.

### **Recommendation**

1497. It is recommended that Policy 5.6.2, and the associated explanation, are retained as notified.

### **Appendix 6 – Schedule 3**

1498. Schedule 3 of Appendix 6 is titled “*Minimum Flows and Levels for Water Takes*”. The following submissions are those made on Schedule 3 of Appendix 6 as they relate to the Urban Springs FMU, the Central Springs FMU and the Northern Springs FMU, and relate directly to Policy 5.6.2. To assist the reader, FMU Overlay Map 3 in Volume 4 shows these three FMUs in map form.

1499. The section of the table in Schedule 3 that relates to these FMUs is as follows –

| <b>Freshwater Management Unit (FMU)</b> | <b>Class</b> | <b>Minimum Flow or Level (Management Purpose)</b> | <b>Monitoring Site or Method</b> | <b>Management Flow or Level (Management Method)</b> |
|---|--------------|---|----------------------------------|---|
| <i>Wairau Aquifer Urban Springs</i>     | <i>n/a</i>   | <i>Minimum level 6.5mamsl at P28w/3954</i>        | <i>P28w/3954</i>                 | <i>Fully restricted below 6.5mamsl</i>              |
| <i>Wairau Aquifer Central Springs</i>   | <i>n/a</i>   | <i>Minimum level 6.1mamsl at P28w/4404</i>        | <i>P28w/4404</i>                 | <i>Fully restricted below 6.1mamsl</i>              |
| <i>Wairau Aquifer North Springs</i>     | <i>n/a</i>   | <i>Minimum level 11.8mamsl at P28w/3009</i>       | <i>P28w/3009</i>                 | <i>Fully restricted below 11.8mamsl</i>             |

1500. For the assessment of submissions in this section, all of the submissions have been identified with summaries of the relief sought and the reasons, which is then followed by a collective response.

1501. There are 70 submissions<sup>98</sup> that seek the removal of the limits for all or some of the Wairau Aquifer Urban, Central and North Springs FMUs, the reasons given are summarised as follows –

<sup>98</sup> 174.001 (Palmer Vineyards Limited), 175.001 (Welton Vineyards Limited), 209.001 and 212.001 (O'Dwyers Farm Partnership Jones), 223.001 (A Sutherland), 140.001 (M Wickham), 141.010 (Hall Family Farms Limited), 143.001 (Starborough Farming Company Limited), 144.001 (Wickham Family Trust), 145.001 (Ormond Nurseries Limited), 154.001 (T McGrail), 155.001 (M Hodges), 168.001 (G Michel), 169.001 (Grapelands Marl Limited), 171.001 (C & P Vickers), 173.001 (Thymebank), 176.001 (Stembridge Vineyards Limited), 202.001 (Geisen Wines), 206.001 (M Bentley), 213.001 (C Vickers), 226.001 (Murphy Horticulture), 234.001 (Cherrybank Orchard), 249.001 (J Jones), 262.001 (K Surgenor), 271.001 (Caythorpe Trustees Limited), 288.001 (M Croad), 296.001 (Kilravock Trust – Vineyards), 297.001 (Red Barn Vineyards), 300.001 (Hawkswood Vineyard Limited), 303.001 (R Flowerday), 341.001 (Neylon Vineyards), 372.001 (M & P Bailey), 375.001 and 375.002 – in part (N Ham), 377.001 (F Patchett), 381.001 (Brentwood Farm Limited), 382.001 (N Clouston), 383.001 (Francis Estate Vineyards Limited), 384.001 (Bures Vineyard Limited), 386.001 (S Jones), 387.001 (O'Dwyers Creek Vineyard Limited), 389.001 (Thomson Family Trust), 390.001 (Marlborough Hort), 391.001 (G J and R M Gane Family Trust), 392.001 (A Dawson), 395.001 (Moore Family Trust), 396.001 (H Clifford), 398.001 (S & M Clifford), 399.001, 400.001, 403.001 and 405.001 (Thymebank), 402.001 (R Waghorn), 406.001 (D Adams), 407.001 (Walnut Block Wines Limited), 408.001 (K Coles), 409.001 (P Scott), 410.001 (Awarua Trust - Dodson Trust), 411.001 (Bird Family Trust), 412.001 (Kotare Vineyard), 413.001 (Herd Properties), 414.001 (Growing Horizon Limited), 415.001 (Taequi Trust), 416.001 (S Shadbolt), 417.001 (P Murphy), 461.001

- Effect on crops/stock – new plantings, fruit quality, tree health, ability to grow feed for stock, limit production;
- Effect on business – undeveloped land, business confidence, decision making, investment based on unrestricted water, industry reputation, meeting export standards, economic consequences, financial suffering;
- Equity – imposing restrictions on the Springs area of the Wairau Aquifer FMU when the area of the Wairau Aquifer FMU to the west of the Springs is not restricted at this time.
- Further information/understanding – on recharge process with Wairau River levels and the Wairau Aquifer recharge, the relationship between the Aquifer and the Springs system, long-term trend of the Aquifer levels, sound science, frequency of likely restrictions, historical well levels;
- Rationing – when the monitor wells drop below a set level, enable users to prioritise water is utilisation when restricted, early warning system advising when restrictions are imminent;
- Dispensation for small water users – concession or dispensation for very small takes or users that already operate in a manner that maximises efficiency and minimises water need.
- Consultation – inadequate consultation and explanation of the proposal.

1502. The S and K Dempster submission (204.002) seeks a graduated restriction system to avoid the cut off level being reached, and to have this as a condition of all new and renewed water permits. The submitter is of the view that this would be a better mechanism as it would be preferable to have a reduced amount of take for an extended period of time rather than a full take restricted for a shorter period, especially as the cut off period is likely to coincide with the critical irrigation period for crops and the length of the cut off is indeterminable. The assessment of the submissions above includes considering the option of rationing, therefore the comments and expert advice on that approach would also apply to this submission.

1503. The Constellation submission (632.002) seeks a review of the minimum levels for the Wairau Aquifer Urban, Central and North Springs FMUs, and the amendment of Schedule 3 accordingly. The submitter is of the view that there needs to be more information on how the limits have been set and more analysis needs to be undertaken to determine if those limits are correct.

1504. There is no information in the submission to assist in understanding what the issues are with the notified limits, or how they do or do not achieve their purpose, only a presumption that a review would change the limits. It is not clear whether the submitter is of a view that the limits are too high or too low. The assessment of the submissions above includes considering the provision of further information, therefore the comments and expert advice on that matter would also apply to this submission.

1505. A similar group of submissions<sup>99</sup> seek that the minimum levels for the Wairau Aquifer Urban, Central and North Springs FMUs be independently reviewed as they are of the view that the imposition of any such trigger levels have the potential to prevent irrigation abstraction resulting in significant productivity loss, therefore critical that those trigger levels are scientifically robust.

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(Brookside Holdings Trust and King Contracting Limited), 871.001 (Kerseley Vineyard Trust), 1267.001 (P Clifford), 264.001 – in part (Walnut Creek Partnership), 141.011 (Hall Family Farms Limited), 489.001 (Larges Rose Nursery Limited) and 491.001 (P James)  
<sup>99</sup>530.001 (AM and LM Campbell Family Trust), 359.004 (WilkesRM Limited), 457.072 and 457.074 (Accolade), 473.071 (Delegat Limited), 776.045 (Indevin Estates Limited), 844.001 (K & L Morgan), 909.082 (Longfield Farm Limited), 966.003 (Marlborough Research Centre Trust), 1159.003 (Spring Creek Vintners), 1218.081 (Villa Maria) and 431.087 (Wine Marlborough)

## Collective Response to this group of submissions

1506. The submissions were considered by Peter Davidson and the following advice was provided on the matters raised –

- Removal of restrictions
  - The volumetric limit on abstraction of groundwater from the Wairau Aquifer FMU is not precise enough to avoid issues from developing in some summer seasons or localised aquifer areas, especially near boundaries where there may be concentrated abstraction or sensitive features (seawater/springs).
  - Restrictions are essential to complement the regional scale volumetric limit to address smaller scale temporal and spatial variability that could stress the Aquifer.
- Derivation of cut-off thresholds
  - It is acknowledged that the threshold levels are relatively arbitrary but serve the purpose of preserving the spring headwaters, and represent the best interpretation of current knowledge of aquifer interconnection or dynamics.
  - There is no correct way of setting ecological limits and if submitters recommend alternative approaches then they can be evaluated.
- Rationing approach rather than cut-off
  - This idea has merit if there was coordination through a water user group and agreement during the season on what reductions in abstraction to make to meet targets across a wide area.
  - Rationing would delay the onset of a complete cut-off.
  - The MEP cut-off thresholds have never been transgressed and were deliberately set lower than those ever experienced so in historical terms they provide 100 percent certainty. However, if the long-term declining trend in groundwater levels, they are likely to be transgressed in the future.
- Early warning system
  - Some sort of forecasting tool will be developed by MDC but it would not negate the need for a cut-off threshold. The purpose of the forecasting tool is to tell MDC hydrologists and water users when thresholds are likely to be approached and assist with seasonal water management.
  - This system depends on lessons from the Wairau Aquifer modelling, and is likely to be developed in 2019.
- Multiple monitoring sites for the Wairau Aquifer North Springs FMU
  - The monitoring well P28w/3009 is located in a representative location and is a good trigger for imposing restrictions. Multiple wells are likely to complicate the issue rather than simplify it.
- Concessions for smaller takes
  - When the Wairau Aquifer is under stress and spring headwaters are receding faster than the natural recession rate, all Wairau Aquifer groundwater abstractors both large and small will contribute to drawing down the water table.
  - If a groundwater abstraction requires consent then it is likely to be large enough to have an impact on the Aquifer and should be restricted even if it is at the lower end of the spectrum.
  - The cumulative effect of many small groundwater abstractions is equivalent to a single large abstraction.

- If the rate of groundwater abstraction is small it is a Permitted Activity and will not be restricted. All water users sharing an Aquifer under summer stress should make seasonal economies or efficiencies not just the larger abstractors.

1507. Peter Hamill has considered these submissions and notes that the spring fed streams of Marlborough's Wairau Plain all derived their base flow from ground water recharge and as a result they are reliant on sustained groundwater levels for their existence. Peter advises the following –

- The spring fed streams are important habitats for aquatic flora and fauna. In 2002 (Cawthron)<sup>100</sup> and 2016 (NIWA)<sup>101</sup> scientific assessments of the ecology of the spring-fed streams on the Wairau Plain were undertaken. The assessments showed that the majority of the watercourses on the Wairau Plain were medium or above, in terms of ecological value.
- The spring-fed streams are home to a large number of eels (predominately shortfin). A rule of thumb, in terms of numbers that Peter has observed over the years of looking at these watercourses, is that you can expect to find at least one eel per linear metre of stream. The spring-fed streams are also an important habitat for inanga (part of the whitebait catch), upland and common bullies, koura (freshwater crayfish) and freshwater mussels. Over the last 40 years, the locally rare fish species, the giant kokopu, has been recorded on less than 15 occasions in Marlborough. The majority of the records have come from the spring-fed streams of the Wairau Plain.
- The spring fed springs of the Wairau Plain are also home to the largest population of the indigenous aquatic plant *Potamogeton cheesemannii*.
- The zone between surface waters and groundwater, known as the hyporheic zone, plays an important role for invertebrates, with some species (particularly crustaceans and mites) living their entire lives in this limited zone around spring emergences. If these zones are allowed to dry up the habitat they provide will be lost and the impact on the hyporheic invertebrates would be substantial.
- The clear water that is found in the spring-fed streams is valued by the community for its natural character and aesthetic values. Properties along the banks of the larger spring-fed streams, such as Spring Creek and Murphy's Creek, are highly sought after and as a result have high property values.
- The Marlborough District Council's Iconic Pollard Park is centred around the clear flowing waters of the spring fed Fulton's Creek and this feature of the Park is highly valued by the general public.
- Peter is of the view that allocation limits and minimum levels need to be set for groundwater resources to ensure that the habitat and natural character values of rivers and streams are protected. Marlborough has built a reputation on producing world class wines in a sustainable way and markets its products accordingly. The impact of a drought situation, where unrestricted water abstraction by grape growers dries up the spring-fed streams of the Wairau Plain, will have a serious effect on Marlborough's reputation as a sustainable wine region. We must manage water abstraction in a way that will not jeopardise the ecology of our springs and therefore our reputation as a wine growing region.

1508. Clearly there is an overwhelming level of opposition to the restrictions in the three Spring Sector FMUs, however it is important to perhaps separate out some of the issues raised –

#### Seeking no restrictions

<sup>100</sup> Ecology of the Wairau Springs - CAWTHRON 2002

<sup>101</sup> Ecological assessment of 24 watercourse sites on the Wairau Plain – NIWA 2016



- The NPSFM requires the Council to establish environmental limits to protect values, and all of the submissions simply seeking to have no restriction apply to them at all are ignoring that obligation. No limit at all is not an option.

#### What limit?

- The question then becomes not about whether a limit should be imposed, but what should the limit be. If a limit was imposed that was so low as to never have any potential impact on business, even during times of drought, then clearly natural and human use values would not be being maintained by those limits. This would not meet the Objectives and Policies of the MEP, or implement the NPSFM.
- As alluded to by Peter Davidson, potentially the limits could be different than those in Appendix 6 as there is no correct way of setting ecological limits, however no submitters offered an alternative, or demonstrated that the limits set in the MEP did not meet their purpose or were too generous to the environment.

#### Equity

- I appreciate the issue of equity, but expert evidence is that abstractors in the vicinity of the Springs can have real time effects on the Springs for which restrictions would have real time positive impacts for the environment if they came into effect. This is much in the same way as abstractors along the coast, within the same Wairau Aquifer FMU, can impact more directly on the seawater/freshwater interface and therefore have area/effect specific restrictions that are not imposed elsewhere in the Wairau Aquifer FMU. While ideally the limits would have been set for everywhere at the same time, the fact that they have not been is not, in-of-itself, a reason to not apply limits where it is possible to do so, the NPSFM requires it.
- The evidence of Messrs Hamill and Davidson is that there is sufficient information to set environmental limits for the Wairau Aquifer Urban, Central and North Springs FMUs, and that they are necessary to maintain the natural and human use values of the Springs.
- There are many water users in the MEP that have limits now that are new or different to what applied to them before, it is both a product of the review and the introduction of the NPSFM during the life of the previous Plans. While not within the same wider FMU, many could argue that it is unfair for any business to be left with unrestricted access to water while others have restrictions, however in my view, it is not acceptable to sacrifice the environment as an outcome of addressing perceptions of inequity.

#### Overall

- In my view, the issue of whether or not there are limits, and the equity of applying limits in one area but not another should be set aside – limits have to be set under the NPSFM, and the environment should not suffer to address a perception of inequity. One option, which is indirectly sought through the submissions, would be to place a limit on the Wairau Aquifer recharge area now, and perhaps the Progressive Implementation Programme (PIP) becomes a refinement of that limit. However, I do not find this to be a very robust approach as the limit (whatever that would be) has not been in the notified Plan for consideration by the affected users and would not be focussed on maintaining values (or really reflect the purpose of a PIP), but it would resolve the equity issue.
- As the recharge area is linked to the Wairau River, one potential stop-gap measure if the Panel was of a view that a limit had to be applied ahead of the outcome of the PIP, would be to link water permits in that area to the management flow for the Wairau River FMU at Baretts Bank, i.e. users in the recharge area would have to cease abstracting water if the flow at Baretts Bank dropped below 8m<sup>3</sup>/s. This approach may seem a little outside the box, however in reality, as flows in the Wairau River drop so too does the

volume of water entering the Wairau Aquifer through the recharge area. For the reasons expressed above, I am not of a view that should this alternative be favourable, that it is implemented through this hearing but that it should be a variation or plan change, so it will go through its own first schedule process.

- It is noted that abstractions from Spring Creek itself are subject to minimum and management flows, so restrictions on groundwater users in the vicinity that also have an effect on the springs is appropriate, and consistent with the approach in other provisions within the MEP.
- The main issue in my mind is, are the limits in the MEP appropriate or should they be different. The evidence of Messrs Davidson and Hamill is that limits need to be in place now to protect natural and human use values, and there is sufficient information to set those limits at this time. There is acknowledgement that the limits could be different, which is the case with all limits as they are relative to values, which are subjective, however no evidence has been presented in the submissions offering an alternative.
- It is my understanding that Messrs Davidson and Hamill would find it unacceptable to leave the Wairau Aquifer North, Central and Urban Springs FMUs without restriction, however if the Panel is of the view that the limits in the MEP are not appropriate and should be removed at this time, and the potential effects on the natural and human use values of the Springs are acceptable, then the setting of these limits could become the subject of a Progressive Implementation Programme under the NPSFM.
- The option of rationing is a possibility, as discussed by Peter Davidson, and there is an existing Method (5.M.2) regarding the use of Water User Groups that could easily be extended to apply to the Springs area. It would have to be determined whether the progressive reductions each season were to be determined using those Groups, or if a new policy should be developed specifying how reductions would apply, the former approach would be consistent with rationing where applied to rivers in the MEP.
- At this time given the above comments regarding having no limits and equity, the lack of alternatives offered in submissions, and the general lack of any evidence to demonstrate that the limits set do not protect values (or how natural and human use values would be maintained if limit setting was delayed), the submissions are not recommended for acceptance. It is anticipated that this will be a considerable discussion point at the hearing, and therefore we will reconsider our assessments on the matters raised in response to the evidence heard.

### ***Recommendation***

1509. It is recommended that Schedule 3 of Appendix 6 as it relates to the Wairau Aquifer Urban Springs FMU, the Wairau Aquifer Central Springs FMU and the Wairau Aquifer Northern Springs FMU is retained as notified at this time.

**Matter 7: Allocating more water than is actually required for any use creates the potential for inefficient use of water. This can compromise the sustainability of the resource and prevent other users accessing water.**

1510. Matter 7 includes - Issue 5G, Objective 5.7 and Policies 5.7.1 to 5.7.11 (inclusive). Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

## Issue 5G

1511. Issue 5G reads as follows –

*“Allocating more water than is actually required for any use creates the potential for inefficient use of water. This can compromise the sustainability of the resource and prevent other users accessing water.”*

Issue 5G only had submissions in support so there is no assessment of submissions and no need for this paragraph, however the Issue is the starting point for the provisions that respond to it, so I have included it here as a reference point for the reader.

## Objective 5.7

1512. Objective 5.7 reads as follows –

*“The allocation and use of water do not exceed the rate or volume required for any given water use.”*

1513. There are 14 submissions<sup>102</sup> that support Objective 5.7 and seek its retention as notified.

1514. The Forest and Bird submission (715.076) seeks an amendment of the Objective to include a requirement for the rate required to be based on efficient irrigation/best practice, as the submitter is of the view that this Objective should also recognise efficient use of water, so that the rate or volume required is based on efficient delivery of water.

1515. In my view, this suite of provisions is all about efficient water use and that collectively this submission is addressed, and no specific amendment to this Objective is required. Similar submissions (715.077, 715.078, 715.079, 715.080, 715.081, 715.082, 715.084, 715.085, 715.086 and 715.087) are lodged on Policies 5.7.1, 5.7.2, 5.7.3, 5.7.4, 5.7.5, 5.7.6, 5.7.8, 5.7.9, 5.7.10 and 5.7.11, the response here is applicable to all submission points.

1516. The Lion submission (908.008) seeks an amendment of the Objective and supporting Policies to provide more appropriate and considered method for allocating water for given uses as while the submitter generally supports the provisions, it has serious concerns with the use of reasonable demand calculations to limit the extent of water takes that can be granted. Given the long-term nature of water take permits and the considerable investment required, an element of growth should be enabled. Lion does not support the proposed limitation on the use of water for frost fighting.

1517. Some of the more specific aspects of the submission will be dealt with in response to other submissions, however as a general assessment, the submitter seeks amendment of the provisions to a different allocation method but provides no details of the method it seeks, therefore there is no support for the relief sought.

1518. The Pernod Ricard Limited submission (1039.055) seeks the retention of the Objective, subject to the amendment of Policies to address its concerns as, while the submitter supports this Objective in principle, it is subject to there being appropriate methods and flexibility in determining how much water is "required".

1519. On the basis I cannot be the judge of whether the provisions on the support for this Objective will be met to the satisfaction of the submitter, I cannot support the submission at this time.

1520. The Levide Capital Limited submission (907.011) does not seek clear relief for Objective 5.7, however there are general comments about adding policies and rules, which have been

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<sup>102</sup> 473.046 (DOC), 509.092 (Fish and Game), 1189.060 (Ngāi Tahu), 1201.047 (Trustpower Limited), 769.028 (Horticulture NZ), 457.022 (Accolade), 431.022 (Wine Marlborough), 1218.022 (Villa Maria), 473.019 (Delegat Limited), 776.014 (Indevin Estates Limited), 961.004 (Chamber), 484.025 (Clintondale), 909.022 (Longfield Farm Limited) and 676.050 (Dairy NZ)

included under Objective 5.7 and it was inferred that these are relevant to this Objective. The submitter states that the proposed fresh water allocation objectives and policies are inequitable and, as such, they may compromise the continued operation of productive rural activities that are water-dependent and which have a reasonable expectation for continued supply.

1521. It is not clear in what way the submitter considers the provisions to not be equitable, and what relief is sought, however the submission seems to suggest that the submitter has an issue with Assets and Services perhaps more so than the MEP in some respects. On the basis that there is no clear discernible relief sought with regards to Objective 5.7, no recommendation is made in Appendix 1.

1522. There are many matters in the submission that are not directly related to Objective 5.7, however I will offer comments that may assist. The submitter seeks the introduction of policies (and rules) to provide for a grandfathering provision to recognise contracts for the full period of the water allocation consent, and which provide for further renewals taking into account commitments and dependence of particular users and industries. As best as I can tell the matters raised would already be covered by RMA sections 104 and 124, and likely other provisions of the MEP. The submitter also seeks the introduction of provisions relating to water conservation measures and supply integration where feasible to maximise resource use efficiency. It is not entirely clear what is being sought, however the focus for efficient use in the MEP has been around not allocating more to a user than is reasonable for the intended purpose, rather than water conservation. Depending on what the submitter is specifically seeking, the matters raised maybe appropriate to consider in relation to subdivision and development. This is reinforced by the submitter seeking the addition of policies and rules requiring new industrial subdivisions in water restricted areas being supported and encouraged to have potable and non-potable water connections in order to reduce the use of limited potable water for activities such as watering landscapes and washing down trucks. The submitter also seeks the policies and rules are added that reward sustainable and wise users of municipal water. This is outside the scope of the MEP.

### **Recommendation**

1523. It is recommended that Objective 5.7, and the associated explanation, are retained as notified.

### **Policy 5.7.1**

1524. Policy 5.7.1 reads as follows –

*“When resource consent is to be granted to use water, every proposed use will be authorised by a separate water permit. Categories include municipal, irrigation, industrial, residential, commercial and frost fighting.”*

1525. There are four submissions<sup>103</sup> that support Policy 5.7.1 and seek its retention as notified.

1526. The Ngāi Tahu submission (1189.061) seeks the addition of a new policy requiring the assessment of separate consent applications for the take and use of water will be considered together, and where a hearing is required, the hearing will hear both applications together.

1527. This matter was raised and assessed in relation to the Ngāi Tahu submission on Policy 5.1.2, and the conclusion is the same, the additional policy is not appropriate. This is especially the case relative to this submission as, in my view, this suite of provisions is focused on water use.

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<sup>103</sup> 548.056 (AWUG), 676.051 (Dairy NZ), 509.093 (Fish and Game) and 778.066 (Irrigation NZ)

1528. The Federated Farmers submission (425.066) seeks the amendment of the Policy as follows – "*When resource consent is to be granted to **take and** use water, every proposed use will be authorised **where appropriate** by a separate water permit....*". The submitter is of the view that at times there may be multiple uses from one point of take (e.g. take for irrigation, to storage, for dairy shed washdown down water etc.), and in these situations these should be combined within one permit as requiring multiple consents will have additional administrative, and compliance costs which are inefficient and ineffective way of managing a natural resource such as water. The submitter also repeats an earlier view that the take and use of water should not be treated as separate activities, and further states that this Policy should be combined with Policy 5.7.5.
1529. It is important that to ensure water is used efficiently and equitably, and this requires the separate consenting and metering of different water use classes. This is not a new approach, this Policy reflects existing practice, and is actually a slight "loosening" of the practice as previously consents for the irrigation of different crop types has also needed to be separately metered. It is inappropriate to extend this Policy to taking water as that is covered in other provisions, and discussion on this matter when raised in submissions has also already been covered. I do not agree that Policies 5.7.1 and 5.7.5 should be combined.
1530. The Horticulture NZ submission (769.029) seeks the amendment of the Policy to delete the text "*every proposed use will be authorised by a separate water permit*", as the submitter is of the view that allocation and use of water are linked and the consent should be authorised by a single permit.
1531. In my view, the removal of this text would make the Policy redundant, I am not clear what the submitter considers the purpose of the remaining Policy would be if the relief sought is accepted. The assessment of the Federated Farmers submission above with regards to a single permit for all uses applies to this submission point also.
1532. The Chamber submission (961.005) has not specified any relief sought and pose questions in their submission so no assessment or recommendation is made. The submitter appears to be concerned about how users will meter and record water use and they are under the impression this is a major change from current process, as discussed above that is not the case. There will be some aspects of recording water use that may differ slightly under the MEP, however metering and providing data to the Council is nothing new to the regions water permit holders.

### **Recommendation**

1533. It is recommended that Policy 5.7.1, and the associated explanation, are retained as notified.

### **Policy 5.7.2**

1534. Policy 5.7.2 reads as follows –

*"To allocate water on the basis of reasonable demand given the intended use."*

1535. There are 10 submissions<sup>104</sup> that support Policy 5.7.2 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy explanation as a consequence of another submission, the recommendation for these 10 submissions in Appendix 1 are recorded as accepted in part.

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<sup>104</sup> 249.004 (J Jones), 370.007 (K Saville-Smith and B James), 425.067 (Federated Farmers), 778.067 (Irrigation NZ), 473.047 (DOC), 631.018 (Constellation), 1124.039 (S MacKenzie), 431.023 (Wine Marlborough), 1242.018 (Yealands Estate Limited) and 676.052 (Dairy NZ)

1536. The submissions received that seek relief other than retention of the provision have been separated below into submissions generally on the Policy, and submissions specifically related to IrriCalc.

1537. As these submissions have such strong references to IrriCalc, in my view, it would be appropriate at this point to include information and advice that, overall, is a product of the assessment of relevant submissions by John Bright. John has provided specific advice on submission points within this report, however the following information will hopefully assist in providing context. This more general advice should be considered as part of the advice on relevant individual submission points.

### Technical Description of IrriCalc

1538. Daily irrigation water use over a forty year period was computer simulated using the IrriCalc model. The amount of water used for irrigation in each month over this forty year period was calculated by summing up the daily irrigation water use over the relevant period. The volume of water that fully met the modelled monthly irrigation water usage in 90% of the years modelled was then found for each month of the year. Taking January as an example, this monthly volume fully met modelled irrigation water use for 36 of the Januaries over the 40 year period, and would meet a significant proportion of the January water use for the four years when the full demand would not be met. The annual volume that fully met irrigation water usage in 90% of years modelled was found in the same way: daily irrigation water use from July to June was summed up and the volume that fully met the annual irrigation water use in 90% of the 40 years modelled was found.

1539. IrriCalc applies the internationally accepted method for determining irrigation water requirements described by Allen et al. (1998)<sup>105</sup>.

1540. Computer modelling of irrigation system operation is a robust method for estimating daily irrigation water demand, based on using a daily soil water balance model in conjunction with a practical irrigation management rule. In particular, it is a method that preserves the correlation between daily rainfall and other daily climate data, and it avoids the need to make major assumptions about the effectiveness of rainfall and efficiency of irrigation.

### Description of IrriCalc's Soil Water Balance Model

1541. The current version of IrriCalc has a single-layer soil water balance model that uses the following equation to update the calculated soil water content on a daily basis given daily measurements or estimates of rainfall, irrigation, drainage and actual evapotranspiration.

$$S_{t_2} = S_{t_1} + R_{(t_2-t_1)} + I_{(t_2-t_1)} - D_{(t_2-t_1)} - AET_{(t_2-t_1)} \quad (\text{Equation 1})$$

Where:

$AET_{(t_2-t_1)}$  = Actual evapotranspiration between time  $t_2$  and  $t_1$

$R_{(t_2-t_1)}$  = Rain between time  $t_2$  and  $t_1$

$I_{(t_2-t_1)}$  = Irrigation between time  $t_2$  and  $t_1$

$D_{(t_2-t_1)}$  = Drainage between time  $t_2$  and  $t_1$

$S_{t_2}$  = Soil water content at time  $t_2$

<sup>105</sup> Allen, RG; Pereira, LS; Raes, D; Smith, M (1998): Crop evapotranspiration – Guidelines for computing crop water requirements. Irrigation & Drainage Paper 56, Food and Agriculture Organisation of the United Nations, Rome.

$S_{t_1}$  = Soil water content at time  $t_1$

1542. Drainage is assumed to occur whenever the soil water content is calculated to be greater than “field capacity”. The volume of drainage is set equal to the volume required to reduce the soil water content to “field capacity”, and it is assumed that drainage occurs within the same daily time period as the rainfall or irrigation that raised soil water content above “field capacity”.

1543. Actual evapotranspiration is calculated using the following equation.

$$AET_{(t_2-t_1)} = K_c \times f(S_{t_1}, a) \times ET_{ref}(t_2-t_1) \quad (\text{Equation 2})$$

$K_c$  = Crop Factor applicable over time  $t_1$  to  $t_2$

$f(S_{t_1}, a)$  = Evapotranspiration reduction function

$ET_{ref}$  = Evapotranspiration over the time  $t_1$  to  $t_2$  for a well-watered reference crop

1544. The Crop Factor is a parameter that specifies the evapotranspiration of a plant population relative to the reference evapotranspiration. It varies throughout the year in response to changes in the crop canopy. The key canopy characteristics are plant height, leaf area, and resistances to vapour transport from leaf surfaces to the atmosphere above the crop. Pruning of crops affects the Crop Factor because of its dependence on leaf area and plant height.

1545. The evapotranspiration reduction function is an empirical function that takes a value in the range 0 to 1, depending on the ratio of soil water content at time  $t_1$  to the “field capacity” and the parameter “a”. Its purpose is to progressively reduce the actual evapotranspiration as the soil water content reduces. The parameter “a” is related to the volume of soil water that is readily available to the plant. The evapotranspiration reduction ‘kicks in’ if the soil water content drops below the volume that is readily available to a plant. The particular empirical function used in IrriCalc is described in Bright (1986)<sup>106</sup>.

1546. Reference crop evapotranspiration is calculated from daily climate measurements using the following equation (ASCE, 2005)<sup>107</sup>, with parameters ( $C_n$  and  $C_d$ ) appropriate for estimating evapotranspiration from a well-watered grass sward of 120 mm height.

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<sup>106</sup> Bright, JC (1986): Optimal control of irrigation systems – An analysis of water allocation rules. A thesis submitted for the degree of Doctor of Philosophy at University of Canterbury.

<sup>107</sup> ASCE (2005)

$$ET_{sz} = \frac{0.408 \Delta (R_n - G) + \gamma \frac{C_n}{T + 273} u_2 (e_s - e_a)}{\Delta + \gamma (1 + C_d u_2)}$$

where:

- $ET_{sz}$  = standardized reference crop evapotranspiration for short ( $ET_{os}$ ) or tall ( $ET_{rs}$ ) surfaces ( $\text{mm d}^{-1}$  for daily time steps or  $\text{mm h}^{-1}$  for hourly time steps),
- $R_n$  = calculated net radiation at the crop surface ( $\text{MJ m}^{-2} \text{d}^{-1}$  for daily time steps or  $\text{MJ m}^{-2} \text{h}^{-1}$  for hourly time steps),
- $G$  = soil heat flux density at the soil surface ( $\text{MJ m}^{-2} \text{d}^{-1}$  for daily time steps or  $\text{MJ m}^{-2} \text{h}^{-1}$  for hourly time steps),
- $T$  = mean daily or hourly air temperature at 1.5 to 2.5-m height ( $^{\circ}\text{C}$ ),
- $u_2$  = mean daily or hourly wind speed at 2-m height ( $\text{m s}^{-1}$ ),
- $e_s$  = saturation vapor pressure at 1.5 to 2.5-m height (kPa), calculated for daily time steps as the average of saturation vapor pressure at maximum and minimum air temperature,
- $e_a$  = mean actual vapor pressure at 1.5 to 2.5-m height (kPa),
- $\Delta$  = slope of the saturation vapor pressure-temperature curve ( $\text{kPa } ^{\circ}\text{C}^{-1}$ ),
- $\gamma$  = psychrometric constant ( $\text{kPa } ^{\circ}\text{C}^{-1}$ ),
- $C_n$  = numerator constant that changes with reference type and calculation time step ( $\text{K mm s}^3 \text{Mg}^{-1} \text{d}^{-1}$  or  $\text{K mm s}^3 \text{Mg}^{-1} \text{h}^{-1}$ ) and
- $C_d$  = denominator constant that changes with reference type and calculation time step ( $\text{s m}^{-1}$ ).

Units for the 0.408 coefficient are  $\text{m}^2 \text{mm MJ}^{-1}$ .

### Description of IrriCalc's Irrigation System Model

1547. Irrigation amounts are calculated by an irrigation system model on each day of a defined irrigation season. A key part of this model is an irrigation management rule for determining when irrigation occurs and how much water is applied.
1548. The irrigation system model enables key irrigation system design and irrigation management parameters or constraints to be specified. These include the irrigation application depth, the minimum return period, irrigation system capacity, the soil water level at which irrigation is triggered, and the beginning and end of the irrigation season.
1549. Table 1 below shows the various combinations of irrigation system parameters that can be applied to replicate a wide range of irrigation practices. These parameters can be varied throughout the irrigation system.

Table 1: Irrigation management options available in IrriCalc

| Application depth | When to irrigate |                                       |  |                           |
|-------------------|------------------|---------------------------------------|--|---------------------------|
|                   | Never            | Every X days, where X = Return Period | Trigger on soil moisture, providing the days since the last irrigation equal or exceed the Return Period | User supplied time series |
| Zero              | ✓                |                                       |  |                           |



|   |  |   |   |   |
|---|--|---|---|---|
| Fixed depth<br>(user defined)                                       |  | ✓ | ✓ |   |
| Variable depth<br>(return soil<br>moisture to a<br>specified level) |  | ✓ | ✓ |   |
| User supplied time<br>series  |  |   |   | ✓ |

1550. Irrigation application efficiency is defined as the ratio of the volume of irrigation water retained in the root zone of the soil to the volume of irrigation water applied to the land surface. The application efficiency can vary from application event to application event. Application efficiency is not an assumed value that is input to the model. It is a consequence of the choices made when specifying the irrigation rule.

1551. Irrigation system capacity is an implicit constraint in IrriCalc. System capacity, application depth and minimum return period are interrelated, as shown in the following equation:

$$\text{System capacity (l/s/ha)} = (\text{Application depth} \times 10,000) \div (\text{Return period} \times 86,400) \quad (\text{Equation 4})$$

where Application depth is in millimetres and Return period is in days.

1552. IrriCalc outputs each component of the soil water balance on each day of the simulation, along with a check-sum that indicates whether mass has been conserved.

#### Summary of Key Assumptions made in building IrriCalc.

- The irrigation actions determined by the irrigation system model are practical.
- Irrigation rules are consistently followed. For some rules this implies that soil water content in the root zone is continuously monitored and used for irrigation decision making.
- Water is always available for irrigation, at the rate required, when irrigation is required according to the decision rule being used (note that actual water availability can be used but for the purpose of estimating potential water demand 100% availability is assumed).
- Crop canopy development is sufficiently consistent across years to enable use of a crop factor time series to transform evapotranspiration for a reference crop into evapotranspiration from the crop or pasture of interest.
- All rainfall and irrigation intercepted and retained on leaf and stem surfaces is effective in meeting the evapotranspiration load.
- The soil is free draining.

#### Data Needed to Use IrriCalc to Estimate Irrigation Water Use

1553. The information required to apply IrriCalc is summarised in the following sub-sections and the sources used for Marlborough are identified.

##### Climate and Soils Data Required

1554. Daily time series for rainfall and potential evapotranspiration throughout the District. These can be measured data or data from NIWA's virtual climate network. Virtual climate network data were used with IrriCalc to develop the reasonable use volumes for MDC. Virtual climate stations cover the whole District on a 5km by 5km grid.
1555. Water holding capacity of the soil profile, to crop root depth. This information was sourced from the Fundamental Soils Database provided by Landcare Research Limited. It is used to provide an indication of the range of soil water holding capacities present on a property. Based on this range, IrriCalc was used to model irrigation water requirements for 13 soil water holding capacity's, from 30mm to 200mm, at each virtual climate station located in the Districts irrigatable areas. Which of these soil water holding capacities is then selected in order to determine irrigation water requirements for a particular property should be based on on-site measurements, preferably, or detailed soil mapping.

#### Crop Data Required

1556. The crop parameters that are the key inputs to IrriCalc are the Crop Factor time series, soil water content below which soil water stress occurs and the date range over which the crop has green leaf area (1 July to 30 June for evergreen perennials, date of bud burst to date of no active green leaf area for deciduous perennials, and date of emergence to date of harvest for annual crops). The crop factor time series must cover this date range for the crop in question.

#### *Vineyards*

1557. The crop parameters for vineyards in Marlborough are based on research conducted in Marlborough, largely by Plant and Food Research Limited (PFR).
1558. Research conducted by PFR using sauvignon blanc vines on Squires vineyard showed that vine leaf area increases reasonably linearly from bud burst to late December. Figure 5 in Green et al (2003)<sup>108</sup> is reproduced below. Their measurements also showed that transpiration, and thus the crop factor, is proportional to leaf area and that the crop factor increased to a maximum value of 0.48, for vines spaced at 2.4m between rows and 1.8m within the rows. Leaf area and transpiration were reduced by about 30% in mid-January by hedging and pruning.

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<sup>108</sup> Green et al (2003)

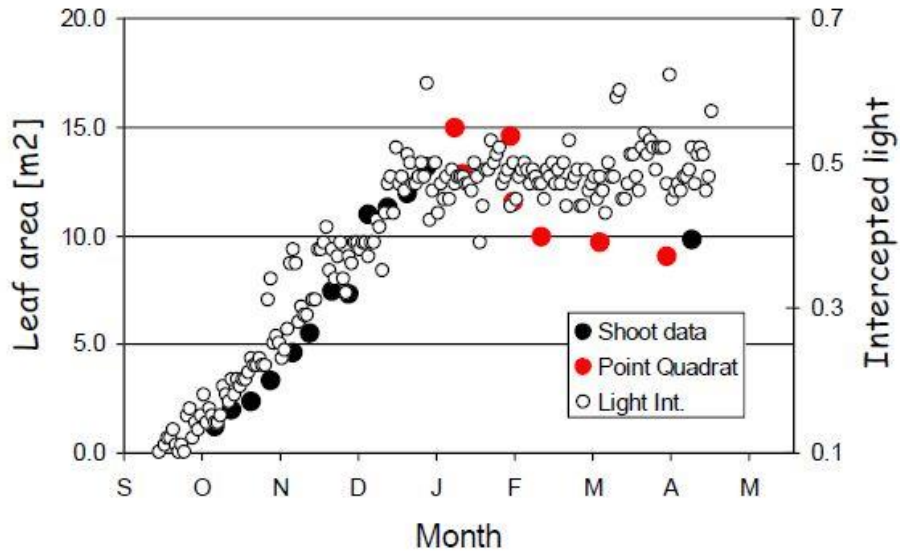
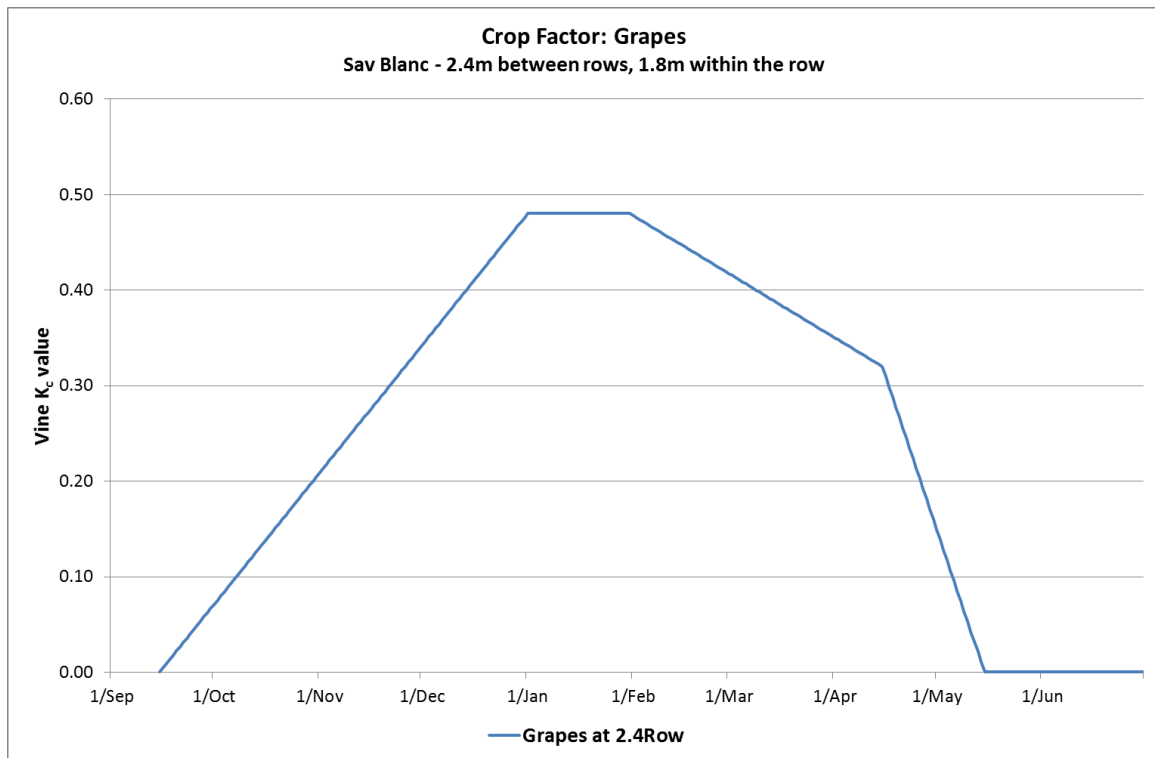


Figure 5. Seasonal development of leaf area (solid markers) and the corresponding percentage of light intercepted by grapevines at Squires. The vines are planted at a spacing of 1.8 m, in N-S rows that are 2.4 m wide. The vines were hedged and trimmed in mid-January and the leaf area was reduced from 15 m<sup>2</sup> per vine down to about 10 m<sup>2</sup> per vine..

1559. The results of this research were used to construct the following crop factor time series for sauvignon blanc vines, in consultation with Dr Green.

1560. In recognition that canopy management varies between properties for many reasons, the crop factor values from mid-January were kept higher, for longer, than Figure 5 in Green et al (2003)<sup>109</sup> would indicate. The values therefore remain at the maximum value of 0.48 through to the end of January and then linearly ramp down by about 30% by mid-April.



<sup>109</sup> Green et al (2003)

1561. The results of the field research were applied this way (i.e. allowing for a wider range of canopy management practices than applied at the Squires vineyard research site) in order to develop reasonable irrigation water use volumes appropriate to the majority of vineyards the same as or similar to Squires in terms of trellis type and vine spacing.

1562. Lebon et al (2003)<sup>110</sup> report that grape vines experience soil water stress when the soil water content drops below 40% of the water holding capacity (i.e. 60% depletion). The irrigation trigger level used with IrriCalc was set considerably higher than this in order to represent local practice (see Irrigation System Data Required section below).

#### *Pasture*

1563. For irrigated pasture, the crop factor time series is based on Van Housen (2015)<sup>111</sup>. Soil water stress is generally understood to commence when the soil water content drops below 50% of the water holding capacity. This is reflected in the irrigation trigger level used with IrriCalc (see Irrigation System Data Required section below).

#### *All other crops*

1564. The crop factor time series for all other crops modelled for MDC were obtained from Allen et al (1998)<sup>112</sup>. It was assumed that soil water stress commences when the soil water content drops below 50% of the water holding capacity.

#### Irrigation System Data Required

1565. The type of irrigation equipment to be modelled, key operating parameters and the beginning and end dates for the irrigation season.

1566. The assumption was made that permanent crops, such as grapevines, olives and stone fruit, would be irrigated using drip or under-tree micro-sprinkler irrigation systems. For pasture and broad-area crops it was assumed that centre-pivot or travelling irrigators (guns or booms) would be used.

1567. The irrigation rules used with each of these systems resulted in a modelled irrigation system efficiency of 80% or greater. For drip or micro irrigation of vineyards, which covers most of the irrigated area in Marlborough, the modelled irrigation system efficiency is greater than 95%, except for soils with a water holding capacity of 30mm, in which case it is 80% or greater in the areas where such soils may be found.

1568. The irrigation season was specified to be from 1 October to 30 April for permanent crops. For broad-area crops it was 1 September to 31 May.

1569. The irrigation rule applied for all crops was to initiate an irrigation application when the soil water content dropped to or below a Trigger Level, providing the number of days since the previous irrigation equalled or exceeded a Minimum Return Period, and to apply a fixed Application Depth.

#### *Irrigation rule used for vineyards*

1570. The irrigation trigger level used with IrriCalc to simulate irrigation of vineyards varied from month to month, as shown in the figure below.

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<sup>110</sup> Lebon et al (2003)

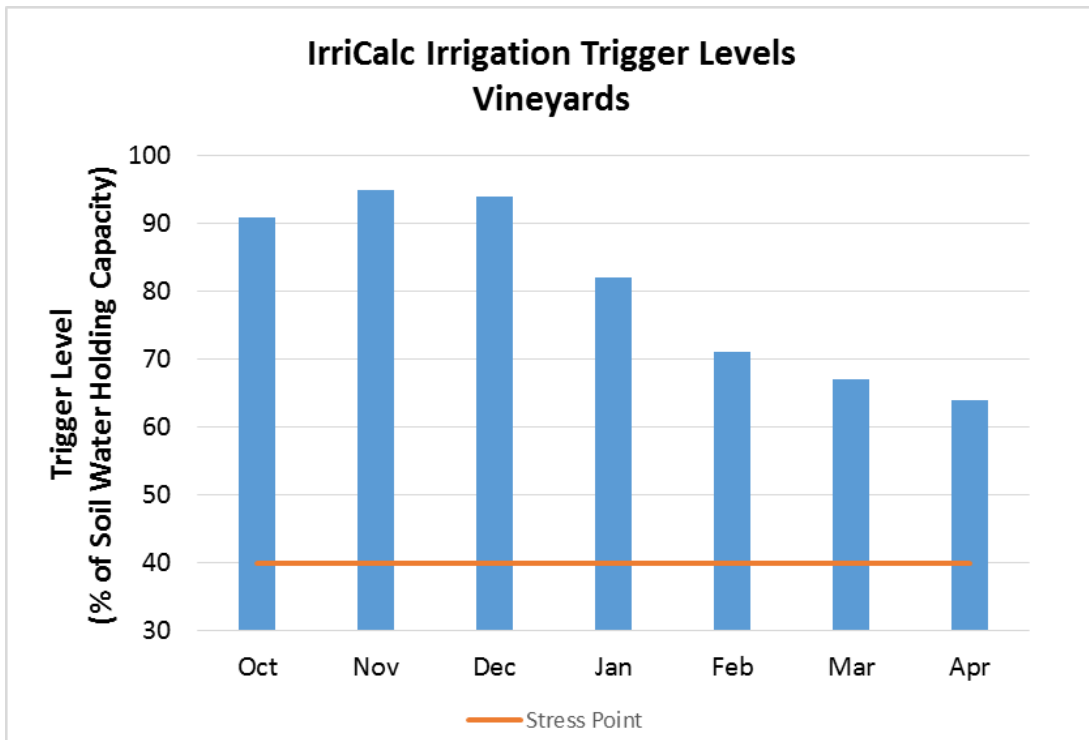
<sup>111</sup> Van Housen, J (2015): Modelling the temporal and spatial variation of evapotranspiration from irrigated pastures in Canterbury. A thesis submitted for the degree of Doctor of Philosophy at Lincoln University.

<sup>112</sup> Allen, RG; Pereira, LS; Raes, D; Smith, M (1998): Crop evapotranspiration – Guidelines for computing crop water requirements. Irrigation & Drainage Paper 56, Food and Agriculture Organisation of the United Nations, Rome.

1571. Of note is that the lowest trigger level used (63%) is significantly higher than the stress point. If a Regulated Deficit Irrigation strategy was to be modelled the trigger level would be set below the stress point (40%) for some months.

1572. The irrigation strategy modelled using IrriCalc is clearly not a regulated deficit irrigation strategy.

1573. The minimum return period was set to 1 day. This means that irrigation could occur on successive days whenever that was necessary to maintain soil water content about the trigger level.



1574. The irrigation depth applied was set at the following values:

|  |      |      |     |             |
|--|------|------|-----|-------------|
| Soil water holding capacity (mm)                     | 30   | 40   | 50  | 60 & higher |
| Application depth (mm/day)                           | 2.5  | 2.4  | 2.3 | 2.2         |
| Application depth (cubic metres/day)                 | 25   | 24   | 23  | 22          |
| Approximate litres per vine per day (at 2.4m x 1.8m) | 10.8 | 10.4 | 10  | 9.5         |

1575. Current guidelines are to apply 2.2 mm/day (Green et al, 2005).

*Irrigation rule used for other crops*

|         | Trigger level | Application depth | Minimum return period |
|---------|---------------|-------------------|-----------------------|
| Pasture | 50-65%        | 15-25mm           | 3-5 days              |

|              |        |         |             |
|--------------|--------|---------|-------------|
| Arable crops | 60-65% | 25-30mm | 5 or 6 days |
| Olives       | 60%    | 4mm     | 1 day       |
| Stonefruit   | 60%    | 9.5mm   | 2 days      |
| Apples       | 60%    | 9.5mm   | 2 days      |

### Application of IrriCalc to develop Reasonable Irrigation Water Use Volumes for Marlborough

1576. IrriCalc was applied in Marlborough in a way that reflects the site to site variation in climate, soils and crop type. That is, the reasonable irrigation water use volumes IrriCalc provides are site-specific.

1577. This was achieved by dividing the Marlborough region up into 5km x 5km grid squares. The climate and soils data used by IrriCalc is specific to each grid square and was obtained from national databases. In the absence of measured site-specific data these national databases are the most reliable sources of climate and soils information.

1578. Where measured site-specific climate or soils data is available, and it is of suitable quality, it is preferable to use this. However, this is not normally the case and so, by default, data from national databases is used.

### General submissions on Policy 5.7.2

1579. The WilkesRM Limited submission (359.002) seeks the addition of a new policy under Objective, to read as follows – ***“To recognise that land users require water for uses other than irrigation purposes and applications for allocations of water for such uses shall be assessed on a case-by-case basis.”*** The submitter is of the view that this additional policy is necessary to provide direction for decision makers when assessing applications for resource consent to abstract and use water for non-irrigation purposes.

1580. In my view, the concern raised by the submitter is covered by Policy 5.7.2, however I acknowledge that the explanation to that Policy is focused on irrigation water use and it would be appropriate to balance out the explanation to better reflect the Policy. I suggest the following sentence be added to the explanation for Policy 5.7.2 to reflect the submitter’s concerns – ***“In the case of non-irrigation uses, the allocation to the user will be assessed on a case-by-case basis.”*** In all cases, water will be allocated according to “reasonable use” as referred to in the Policy, whether that be by using an irrigation water use tool or other method to determine the appropriate level of allocation. Submissions seeking similar relief were lodged by Kerseley Vineyard Trust (871.003) on Objective 5.7, and others<sup>113</sup> on Policies 5.7.2 and 5.7.3, the response to the submission of WilkesRM Limited also applies to those submissions. The submissions on Policy 5.7.2 expressed the relief as limiting Policy 5.7.2 to irrigation and adding a new Policy as sought under WilkesRM Limited submission (359.002).

1581. The Ngāi Tahu submission (1189.062) seeks amendment of the Policy as follows – ***“To allocate water on the basis of reasonable demand given the intended use by requiring resource consent applicants to provide detailed information on the intended use as part of applications.”*** The submitter is of the view that the amendment proposed will provide clear expectations about the requirements of this Policy.

<sup>113</sup> 321.001 (S and R Adams), 359.001 (WilkesRM Limited), 374.011 and 374.012 (Talley's Group Limited), 457.023 (Accolade), 462.028 (BRIL), 473.020 (Delegat Limited), 548.057 (AWUG), 717.034 and 717.035 (Fulton Hogan Limited), 776.015 (Indevin Estates Limited), 777.001 (Investavine Limited), 871.002 (Kerseley Vineyard Trust), 909.060 (Longfield Farm Limited), 910.001 (Lower Waihopai Irrigation Company), 966.001 (Marlborough Research Centre Trust), 970.004 (Middlehurst Station Limited), 1159.001 (Spring Creek Vintners), 1162.001 (T & S Jeffries and 11 Others), 1218.061 (Villa Maria), 1237.001 (Willowgrove Dairies Limited), 1039.056 (Pernod Ricard) and 431.070 (Wine Marlborough)

1582. In my view, the amendment is not necessary, if an applicant does not supply sufficient information to establish that the use is reasonable, then under this Policy as notified they would not be granted an allocation of water.
1583. The EDS submission (698.033) seeks the amendment of the Policy as follows – “*To allocate water on the basis of reasonable demand and efficient practice assessed using a common assessment tool or criteria given the intended use.*” The submitter only referred to its submission on Objective 5.6 to explain the relief sought, so it lacks a bit of context relative to Policy 5.7.2. On the surface of it, Policy 5.7.2 would appear to already address the concerns but more information is really required from EDS to understand the submission in the context of this provision.
1584. The Fish and Game submission (509.094) seeks to replace Policy 5.7.2 with an alternative Policy that achieves the same intent as Policy 5-12 of Horizons One Plan (not provided). The only justification for this significant change in the Policy is that the alternative is more thorough.
1585. The alternative offered may be more thorough in achieving the aspirations of the One Plan, but this is not the One Plan. It appears that the specific relief sought is copied directly from the One Plan and goes significantly beyond the intent of Policy 5.7.2, to give effect to Objective 5.7 and respond to Issue 5G. The parts of the relief that relate to irrigation seem to reflect the provisions notified but the remainder goes into great detail about many uses of water that are Permitted Activities and are therefore not subject to this Policy. It also goes into detail about allocations within municipal supplies, such as for medical facilities, education facilities, correction facilities, public amenity and recreational facilities (gardens, parks, sports fields and swimming pools), and allocations for urban growth and water leakage. The approach taken in the MEP is that these matters are the responsibility of the MDC Assets and Services Department as the consent holder. If the detail sought by Fish and Game was to be covered in the MEP, in my view, it would not be in this section but require reconsideration of the approach in other parts of Chapter 5, and possibly have to involve the consideration of provisions in other chapters relating to topics such as the urban environment and open space.

#### IrriCalc related submissions on Policy 5.7.2 (and similar submissions on other policies)

1586. The Giesen Wines Limited submissions (197.004 on Objective 5.7, 197.001 on Policy 5.3.7, 197.002 on Policy 5.7.3 and 197.003 on Policy 5.7.2) seek a reassessment of the parameters and methodology used in IrriCalc to determine the volumes of water to be used to irrigate grapes for water permit applications. The submitter is of the view that, based on its experience, there is consistent variation from the figures IrriCalc produces to the actual amounts applied in actual growing conditions, and the differences are sometimes large and significant. Further, if some vineyards had been restricted as per the IrriCalc figures, then there would have been a significant cost to the business in lost production and value over the last two seasons. Giesen Wines Limited consider that the IrriCalc system appears to not take sufficient account of the particular conditions on individual vineyards, it is a blunt instrument when a more sophisticated and finely-tuned approach is needed. For instance, it does not appear to adequately account for different varieties, plant densities, management aims, yield expectations or soil types. Particular attention should be given to variety, plant density and the need to irrigate outside the normal pattern. Kilravock Trust – Vineyards submission (296.003) seeks similar relief, and is of the view there are fundamental flaws with IrriCalc but does not elaborate, other than seeking a more science-based approach.
1587. Giesen Wines Limited states in its submission that the IrriCalc system has an average year as part of its calculation methodology, and it appears that there will be a lot of years where the variation from the average year will be big enough to adversely impact the performance of the business. John Bright advises that this is incorrect, and his general advice above explains the methodology and inputs – an ‘average year’ is not part of the methodology.

1588. In reading the reasons behind the relief sought, it should be noted that Policy 5.7.3 contains specific recognition that IrriCalc is the default approach that will be used for allocating irrigation water but that there is direct provision for an alternative based on site specific information. Clearly it is important that the “default” is fit for purpose, however it should not be overlooked that resource consent applicants are able to provide information that can influence the allocation they ultimately receive.
1589. John Bright has considered these submissions and, in addition to the general advice on IrriCalc above, advises that the parameters used in IrriCalc have been derived from research conducted on Marlborough vineyards. The parameters have been chosen to accommodate the majority of vineyard planting densities, canopy management and irrigation practices. If a particular property falls outside the parameters chosen for use with IrriCalc, Policy 5.7.3 provides for alternative reasonable water use figures, based on detailed site-specific data and analyses.
1590. With regards to the call for a more science-based approach, John advises that IrriCalc is based on well-established science, as described in his general comments. The methodology has been developed internationally over many decades and has been standardised by organisations such as the Food and Agriculture Organisation of the United Nations and the American Society of Civil Engineers.
1591. The J and M Van Hove submission (499.001) was lodged against Objective 5.3, however the submission is almost entirely about IrriCalc therefore it is being assessed at this time alongside similar submissions. The submission specifically seeks the following –
- Modify IrriCalc to calculate (as opposed to the actual blanket 2.2mm) the daily take of water that reflect soil and climate specificity;
  - Modify IrriCalc to accommodate the best use of water to produce specifically the style of Marlborough Sauvignon blanc (as opposed to grapes);
  - Allow water use in early spring to bring soils to Field Capacity;
  - Allow for increased surface water take after an event when the river is saturated with sediment.
1592. The submitter provides a very detailed explanation for the relief sought and, while it has not been entirely repeated here, it has been thoroughly considered by John Bright. In summary, the submitter seeks the modification of IrriCalc to calculate (as opposed to the actual blanket 2.2mm) the daily take of water that reflect soil and climate specificity, to accommodate the best use of water to produce specifically the style of Marlborough Sauvignon blanc (as opposed to grapes), to allow water use in early spring to bring soils to Field Capacity, and to allow for increased surface water take after an event when the river is saturated with sediment.
1593. John Bright provides the following advice in response to the matters raised by the submitter –
- For soils with a water holding capacity of 60mm or greater the daily irrigation amount is set at a level that is consistent with current practice. For soils with lower water holding capacity the daily irrigation amount increases as the water holding capacity decreases, in recognition of the reduced ‘buffer storage’ capacity of those shallower soils.
  - The irrigation rule allows for irrigation water use from 1 October on and the trigger level is set so that the soil water content will be brought up to near Field Capacity as quickly as possible. The same applies after a period of shutdown due to sediment laden river water.
1594. The relief sought by the submitter is specific to the inner workings of IrriCalc and no amendments to the provision it was lodged against (Objective 5.3) are sought. On the basis



that Mr Bright's advice does not identify any changes being appropriate as a result of this submission point, the recommendation in Appendix 1 is to reject the submission. It is acknowledged that it may not be obvious to submitters where the appropriate place to raise technical concerns about IrriCalc is, therefore there is somewhat of a disconnect between relief sought and the specific provisions. Possibly Method 5.M.7 (Modelling) would have been a good place, however I suspect this provision was overlooked by many as it only attracted one submission, which supported its retention as notified.

1595. The M Croad submission (288.004), Red Barn Vineyards submission (297.004) and Hawkswood Vineyard Limited submission (300.004) on Policy 5.7.3 do not seek specific relief for which an assessment or recommendation can be made. The submitters are concerned that water allocated for the shoulder seasons through IrriCalc appears to not be enough.
1596. John Bright has considered these submissions and provides the following advice, which may provide the clarification sought by the submitters. The reasonable water use volumes for the shoulder months of the season primarily depends on the climate, the crop factor and the irrigation strategy for those months. These water use volumes are sufficient to maintain the soil water content at or above the irrigation trigger level in 90% of years. The submitters also sought clarification around water that can be used off season for other operations such as winter maintenance and other small operations, it is not clear what the concern is, however application can be made for these activities and perhaps the amendment recommended to the explanation to Policy 5.7.2 may clarify that non-irrigation uses will be assessed for reasonable use on a case-by-case basis.
1597. The Horticulture NZ submission (769.030) seeks the retention of the Policy but an amendment to the explanation to provide for circumstances when a crop type is not covered by IrriCalc.
1598. John Bright has considered this submission and, in addition to the general advice on IrriCalc above, advises that the key information required to use IrriCalc to model alternative crops is the Crop Factor. Crop factors for a very wide range of crops are available in scientific publications and in Allen et al (1998)<sup>114</sup>. It is a relatively simple task to use IrriCalc to obtain reasonable use numbers for additional crops. Horticulture NZ lodged a similar submission (769.031) on Policy 5.7.3, this assessment would equally apply to that point.
1599. The D Hulburt submission on Policy 5.5.4 (5.001) seems to be most concerned with the reasonable use provisions, and Policy 5.5.4 only really to the extent that it links to Policies 5.7.1 to 5.7.6. The submitter seeks recognition of the different water of different crops, different varieties within those crops, and different production methods.
1600. John Bright has considered this submission and, in addition to the general advice on IrriCalc above, advises that the MEP provides for alternative reasonable water use numbers to be agreed on a case-by-case basis. If necessary, IrriCalc can be used to obtain reasonable use numbers for different crop systems.
1601. The D and M Downs-Woolley submission (322.001) seeks assurances rather than a relief sought for which an assessment and recommendation can be made, however it is likely the matters they have raised will be addressed in discussions on other submissions. The submitter seeks an assurance that IrriCalc will be calibrated to deliver water to "worst case" scenario within variable soil types, as they are concerned it is not refined enough given soils are not homogenous.

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<sup>114</sup> Allen, RG; Pereira, LS; Raes, D; Smith, M (1998): Crop evapotranspiration – Guidelines for computing crop water requirements. Irrigation & Drainage Paper 56, Food and Agriculture Organisation of the United Nations, Rome.

1602. The Clintondale submission (484.026) is somewhat confusing as the relief sought suggests that the submitter has interpreted Policy 5.7.2 to be relating to taking water and Policy 5.7.3 is relating to using water. This is not the case, the former is about allocating relative to reasonable demand, and the latter is about irrigation water permit applicants being able to provide measured site specific information as an alternative to using the IrriCalc default input data. The remainder of the relief appears to be covered between Policies 5.7.2 and 5.7.3, however the submitter may provide further information at the hearing on the matters raised. At this stage I do not support any amendments as a result of this submission.

1603. It is noted that none of the submissions relating to IrriCalc seek any change to Policy 5.7.2 itself. John Bright has assessed the submissions and provided both general and specific advice, on the basis of the content of the submissions, and expert advice, no changes are recommended for this Policy.

### **Recommendation**

1604. It is recommended that Policy 5.7.2 is retained as notified.

1605. It is recommended that the explanation to Policy 5.7.2 is amended to add the following sentence to the first paragraph –

***“In the case of non-irrigation uses, the allocation to the user will be assessed on a case-by-case basis.”***

### Policy 5.7.3

1606. Policy 5.7.3 reads as follows –

*“Water permit applications to use water for irrigation will not be approved when the rate of use exceeds the reasonable use calculation, except where the applicant can demonstrate that they require more water based on property specific information.”*

1607. There are eight submissions<sup>115</sup> that support Policy 5.7.3 and seek its retention as notified.

1608. There are a group of submissions<sup>116</sup> that seek the rewording of the Policy to better recognise that IrriCalc is the default and that there will be many circumstances where modelled reasonable demand does not reflect the actual demand, and in those situations property specific information will take precedence over the reasonable use calculation.

1609. The relief sought does not fundamentally change anything but it is about the tone and intent of the Policy, and the provisions in general. As it stands the provisions make it clear that the starting point for irrigation water is the site-specific reasonable use volumes provided by IrriCalc (see John Bright's section on this above) and, unless alternative site specific information is provided, that will be the basis on which an allocation of water is granted. The submitters in essence seek to reverse this situation and have a Policy that has a starting presumption that allocations will be granted on the basis of site specific information, with IrriCalc only used if that information is not forthcoming. In my view, the Policy enables applicants to seek an allocation based on site specific information, which is what the submitters want to be able to do, and the direction/tone of the Policy as notified has exactly the messaging it was intended to have – IrriCalc is the starting point for allocating irrigation water. In my view, the change in language sought is inconsistent with the intent of the Policy and the overall approach in this suite of provisions responding to Issue 5G.

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<sup>115</sup> 273.003 (B James), 425.068 (Federated Farmers), 778.068 (Irrigation NZ), 473.048 (DOC), 1124.040 (S MacKenzie), 431.024 and 431.071 (Wine Marlborough) and 676.053 (Dairy NZ)

<sup>116</sup> 359.003 (WilkesRM Limited), 457.024 (Accolade), 462.029 (BRIL), 473.021 (Delegat Limited), 548.058 (AWUG), 776.016 (Indevin Estates Limited), 777.002 (Investavine Limited), 909.061 (Longfield Farms Limited), 966.002 (Marlborough Research Centre Trust), 970.005 (Middlehurst Station Limited), 1159.002 (Spring Creek Vintners), 1162.002 (T & S Jeffries et al), 1218.062 (Villa Maria), 1237.002 (Willowgrove Dairies Limited), 1039.057 (Pernod Ricard), 631.043 (Constellation) and 1242.037 (Yealands Estate Limited)

1610. The justification for the changes sought in the submissions seems to suggest that the use of IrriCalc will be the exception rather than the norm, this raises the bigger question of whether IrriCalc is fit for purpose. IrriCalc is a tool that has been developed and refined over a number of years, and the Council through the review process participated in that development and supported the use of this tool for allocating water for reasonable use, as has Irrigation NZ in more recent times. While there are acknowledgements through Policy 5.7.3 that the use of the tool can be refined through using measured site specific information, if it is anticipated by water users that exceptions to the tool will be sought at every turn, then I wonder if perhaps the MEP loses the benefit of the consistency and transparency of approach that Irricalc provides as part of the water management approach in the region.

1611. The EDS submission (698.034) seeks the amendment of the Policy 5.7.3 as follows –

*“Water permit applications to use water for irrigation will not be approved when the rate of use exceeds **efficient practice** or the reasonable use calculation, except where the applicant can demonstrate that they require more water based on property specific information, and:*

*(a) **That water is being used on site;***

*(b) **That additional water use is necessary for the specific use;***

*(c) **The applicant demonstrates that the water will be used efficiently;***

*(d) **The permit includes review dates to assess use and efficiency;***

*(e) **The additional take will not result in over-allocation.”***

The submitter is of the view that takes should be determined by efficiency of use as determined using common criteria or a common tool as this will ensure that applications are assessed fairly and equally using a common standard. Further, it states that MDC will need to develop efficiency standards with industry and stakeholder input for activities where IrriCalc cannot be used, and any exception to the appropriate use calculation should be within specific perimeters to prevent perverse outcomes. Those perimeters should prevent additional takes being sought purely for trading purposes, should ensure that the additional take is necessary and will be efficiently used, and that it can be subject to scrutiny under review.

1612. In my view, the relief sought is unnecessary and/or inappropriate. The whole point of this Policy is that it recognises that there are unique site specific situations that may justify a divergence from using IrriCalc default values – this approach is at odds with the relief sought of wanting specific criteria. Specific criteria, consistency and a common tool are all part of the Irricalc approach, to try and apply those concepts to this Policy would somewhat defeat its purpose. With regard to adding in “efficient practice” into the provision, but then stating that MDC will have to determine what that is with the community, adds a level of uncertainty to the Policy that I am not comfortable with and do not support. Points (a) to (e) are for the most part covered already elsewhere or in practice – (b) and (c) are essentially a duplication of the Policy itself, all permits already include a s128 review condition, and over-allocation is covered by other provisions, including a specific Prohibited Activity rule. Matter (a) is not necessary as water can only be used on the site, and for the purpose, it was granted for.

1613. The Fish and Game submission (509.095) seeks the retention of the Policy with an amendment to remove the text “*except where the applicant can demonstrate that they require more water based on property specific information*”. There is no justification in the submission for removing the exception from the Policy, and the effect of doing so could be significant for some water users. I am comfortable with the approach taken in the MEP, and the submitter has provided no information to support a change.

1614. The Kerseley Vineyard Trust submission (871.004) seems to support the retention of this Policy but raises concerns about water use up to the maximum summer daily rate and at

shoulder periods (spring and autumn) even where there is not the normal summer demand, but nevertheless seasonal irrigation is desirable post-harvest or otherwise.

1615. I have recorded the recommendation for this as accept on the basis that the specific relief sought for this Policy is to retain the provision. However, John Bright has assessed this submission and advises that the Plan allows for water to be used at the maximum summer daily rate in any month of the irrigation season. This recognises that irrigation systems are designed to operate best at this rate. However, the total usage volume allowed in November, for example, is less than in January. This means that although the irrigation system is able to operate at the maximum daily rate in each of these months, the total number of days per month that it can run at that rate is less in November than it is in January.
1616. The W Crosse submission (224.004) supports this Policy but seeks for all water permits to be reviewed regardless of their term to ensure water is allocated according to the principles set out in Policy 5.7.3, as this will help ensure water is most efficiently used and those irrigators on light soils are not compromised.
1617. This is an option, however through the review process a decision was made not to take that approach on this matter, partly because a significant number of permits were expiring in 2019 and partly because there did not seem to be the immediacy, in terms of responding to an adverse effect, that warranted calling all permits in. The information in the submission does not persuade me to deviate from the approach notified in the Plan.
1618. The Clintondale submission (484.027) seeks the amendment of this Policy, and all other provisions which mention IrriCalc. As indicated on the submission on Policy 5.7.2 the relief sought suggests that the submitter has incorrectly interpreted Policy 5.7.2 to be relating to taking water and Policy 5.7.3 is relating to using water. The amendments sought include, the MEP not specifying IrriCalc as the sole tool upon which reasonable water use is determined, that property specific information may be considered in determining reasonable water use instead of the modelling tool, that where property specific information substantiates that an allocation of water higher than that determined by the modelling tool is required, then such allocation may be approved/override the modelling result. A similar submission (484.014) was lodged on Policy 5.3.9, not seeking specific relief, but raising concerns about specifying Irricalc in the MEP.
1619. All of these matters are provided for in the notified provisions, so it is not clear what changes are necessary. The only possible matter is the specification of IrriCalc in particular in the MEP, while it is acknowledged that perhaps stating a specific system is not ideal, that concern is essentially negated by enabling site specific information to be provided as an alternative. It is likely that John Bright's advice on the submissions relating to IrriCalc may respond to the submitters concerns, in the meantime I am not persuaded to recommend any amendments to the Policy as a result of this submission.

### **Recommendation**

1620. It is recommended that Policy 5.7.3, and the associated explanation, are retained as notified.

### **Policy 5.7.4**

1621. Policy 5.7.4 reads as follows –

*“Require water permit holders to measure their water take with a pulse emitting meter, to record water take and use with a data logger, and to transfer the recorded water take and use information by the use of telemetry. Alternative methods of measurement, recording or transfer that provide the Marlborough District Council with accurate water take and use data may be considered.”*

1622. There are seven submissions<sup>117</sup> that support Policy 5.7.4 and seek its retention as notified. On the basis that I have recommended an amendment to the provisions as a consequence of another submission, the recommendation for these seven submissions in Appendix 1 are recorded as accepted in part.
1623. The Irrigation NZ submission (778.069) seeks amendments to the Policy as follows –
- “Require water permit holders to measure ~~their water take with a pulse emitting meter, to record water take and use with a data logger, and to transfer the recorded water take and use information by the use of telemetry~~ **record and transfer the information from their water take using a meter and data management system that is capable of recording real time information, and telemetering this to the Marlborough District Council.** Alternative methods of measurement, recording or transfer that provide the Marlborough District Council with accurate water take and use data may be considered.”*
1624. The submitter is of the view that this Policy needs to be made more generic as water measurement and data transfer technology is rapidly changing. I have asked my colleagues in the MDC Resource Consent and Compliance Departments to consider the consequences, if any, of the changes sought and we are all of a view that the amendments are acceptable. If there is scope for it, perhaps as a consequential change, Council staff also consider that a definition for “telemetry” would be useful and note that the following definition has recently been added to the submitters code of practice – *“Telemetry refers to an automated communications process by which measurements and other data are collected and transmitted to receiving equipment for monitoring”*. A consequential amendment to the explanation for the Policy and to Method 5.M.1 are also recommended, and is detailed in the Recommendation section below.
1625. The Federated Farmers submission (425.069) to replace the Policy with the following – *“Require water takes to be measured to within +/- % of the water take”* (no specific percentage was provided). The submitter is of the view that measuring water takes with telemetry should only be necessary where required under national legislation, and that rather than providing a prescriptive method for how the take must be recorded, the Council provide a guideline, for example require the take to be measured within +/- % as per the water metering regulations. How this is achieved will then be up to Council and water resource user and will then enable changes in technology over the life of the Plan. Otherwise, this Policy will hold resource users to a point in time.
1626. I find the suggested alternative to be quite inadequate and will not enable the Council to manage water resources from many perspectives, including ensuring reasonable use. I anticipate that the recommended amendments as a consequence of the Irrigation NZ submission above may address some of the submitters concerns.
1627. The S James submission (193.001) supports water meters being required at the take point but is not of the view that a datalogger is necessary for domestic users, for example, a collective take by a group of residents, extracting water for domestic and stock use, should not be bound to the same monitoring as commercial well users as a well owned by a group of five residents is no different to five individual residents all owning their own well.
1628. I do not agree with the last statement made as the effect of taking five times the allocation per individual from a single site can have substantially more effect on the water resource than if that same volume is spread out over five take point abstracting lower volumes. It is not uncommon for domestic water users who require a consent to have more lenient metering requirements in recognition of the purpose of the take, however this needs to be assessed on a case-by-case basis. The final sentence of the Policy anticipates that methods

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<sup>117</sup> 370.003 (K Saville-Smith and B James), 1039.058 (Pernod Ricard), 1189.063 (Ngāi Tahu), 688.024 (J and J Hellstrom), 548.059 (AWUG), 473.049 (DOC) and 676.054 (Dairy NZ)

may be utilised to record water use, therefore in my view, no amendment to the Policy is required.

1629. The Oil Companies submission (1004.003) seeks an amendment to the Policy to provide for the following exception – **“Water taken for temporary and short term construction dewatering purposes is exempt from the policy due to its shallow take, non-consumptive water use and almost immediate return to the catchment.”** The submitter notes that Policy 5.2.5 prevents the take of water in certain times and provides exemptions for water taken for domestic needs or animal drinking water, while Policy 5.7.4 requires water permit holders to measure their water take, and these Policies are opposed in that they do not provide an exemption for temporary construction dewatering.

1630. If the submitter is successful in its other submissions and has its activity added as a Permitted Activity to the MEP, then Policy 5.7.4 will be of no consequence to them as it only applies to consented activities. If the submitter's activity ultimately requires consent under the MEP, then they have every opportunity through the consenting process to put forward an argument for using an alternative method of monitoring its activity, as is anticipated in the Policy. It is concerning that the justification in the submission for the exemption is very specific to dewatering associated with retanking by oil companies at service stations, however the exemption is not specific to oil company activities, and in my view, the wider application of the exemption has not been considered.

1631. The D and M Downs-Woolley submission (322.002) seeks that the Council introduce data loggers and telemetry, only upon expiration of current water permits or for new permits. Unless required under the Water Meter Regulations, there is no intention in the MEP to implement this Policy at times other than when resource consent is sought. On the basis that the relief sought is already provided for in the MEP, the recommendation for the submission in Appendix 1 is recorded as accepted.

### **Recommendation**

1632. It is recommended that Policy 5.7.4 is amended as follows –

~~“Require water permit holders to measure, their water take with a pulse emitting meter, to record water take and use with a data logger, and to transfer the recorded water take and use information by the use of telemetry”~~ **record and transfer the information from their water take using a meter and data management system that is capable of recording real time information, and telemetering this to the Marlborough District Council.** *Alternative methods of measurement, recording or transfer that provide the Marlborough District Council with accurate water take and use data may be considered.”*

1633. As a consequence of the recommended change to the Policy, it is recommended that second sentence of the last paragraph of the explanation associated with Policy 5.7.4 is amended as follows –

~~“Data loggers”~~ **Data management systems that are capable of recording real time information** *provide accurate water take records and their use avoids the need for manual readings”.*

1634. It is recommended that, if there is scope, the following definition is added to Volume 2, Chapter 25 of the MEP –

**“Telemetry refers to an automated communications process by which measurements and other data are collected and transmitted to receiving equipment for monitoring”.**

1635. As a consequence of the recommended change to the Policy, it is recommended that seventh paragraph of Method 5.M.1 is amended as follows –

*“Require all resource consents granted for to **take and use** water ~~takes~~ to be measured by **using a meter and data management system that is capable of recording real time information** ~~pulse emitting meter and recorded by data logger~~, and require the recorded take and use information to be transferred to the Council by telemetry.”*

#### Policy 5.7.5

1636. Policy 5.7.5 reads as follows –

*“Separate measurement will be required to record different categories of water use, but not for different uses within each category. Categories include municipal, irrigation, industrial, residential, commercial and frost fighting.”*

1637. There are three submissions<sup>118</sup> that support Policy 5.7.5 and seek its retention as notified.

1638. The Levide Capital Limited submission (907.012) seeks amendment of the Policy as the submitter is of the view it is required to remove unnecessary confusion and possible ambiguity arising from the separate reference to "municipal" water use in addition to other activities, but with the definition of "municipal supply" including all of these activities when the supply is administered by Council.

1639. In my view, the provision is not confusing, the definition of "*Municipal water supply*" simply states it is any water supply "*owned, managed or administered by the Marlborough District Council*", it does not mention any of the different water uses stated in this Policy, and the consent sought would be for municipal use, not the other uses.

1640. The Chamber submission (961.006) has not specified any relief sought and only pose a question in their submission so no assessment or recommendation is made. The submitter is concerned about the cost and administrative burden of installing meters. As previously discussed, metering and providing data to the Council is not a new requirement for water permit holders.

#### **Recommendation**

1641. It is recommended that Policy 5.7.5, and the associated explanation, are retained as notified.

#### Policy 5.7.6

1642. Policy 5.7.6 reads as follows –

*“Have regard to the efficiency of the proposed method of distribution and/or irrigation in determining resource consent applications to use water for irrigation purposes.”*

1643. There are seven submissions<sup>119</sup> that support Policy 5.7.6 and seek its retention as notified.

1644. The Pernod Ricard submission (1039.060) seeks the deletion of the Policy entirely as it is of the view that the efficiency of any irrigation method is a matter of judgment and vineyards may need to be irrigated in different manner to how other crops or pasture would be watered in order to ensure a quality product. Further, Pernod Ricard considers this Policy is unnecessary as the water available is already constrained by the 'reasonable use' calculation (using IrriCalc and to provide water 9/10 years).

1645. The Policy does not suggest that there should be one type of irrigation for all, and that has never in practice been assumed. In my view, this Policy is entirely reasonable as ensuring

<sup>118</sup> 1039.059 (Pernod Ricard), 778.070 (Irrigation NZ) and 548.060 (AWUG)

<sup>119</sup> 425.070 (Federated Farmers), 1124.041 (S MacKenzie), 769.032 (Horticulture NZ), 778.071 (Irrigation NZ), 1189.064 (Ngāi Tahu), 548.061 (AWUG) and 676.055 (Dairy NZ)

there is not wasteful water use is an important part of water management, especially when most water resources are fully or over-allocated. The argument about the water already being constrained does not stand up as the method of irrigation is one of the factors taken into consideration when determining reasonable use, so it needs to be considered during the consenting process.

1646. The Fish and Game submission (509.096) seeks retention of the Policy but with amendments that introduce a minimum efficiency standard for irrigation applications of at least 80% efficiency, and that make the Policy more directive by removing the wording “*have regard to*”.
1647. John Bright has considered this submission and advises that, as explained in his general comments under the heading “*Irrigation System Data Required*” earlier, the irrigation rules used for the IrriCalc modelling achieve an irrigation system efficiency of 80% or greater. Given the advice of Mr Bright, and that I am comfortable with the Policy as worded giving clear direction, no changes are recommended to this provision as a result of this submission.
1648. The Forest and Bird submissions (715.058, 715.059, 715.060, 715.061, 715.062, 715.063) all have the same content and have been lodged against Policies 5.4.1 to 5.4.6, however in my view, the subject matter makes their assessment more appropriate relative to Policy 5.7.6. The submissions seek additional policy direction for efficient irrigation and the avoidance of irrigating outside the command area, avoidance of irrigation on areas of significant indigenous vegetation, riparian area (other than to establish riparian plantings) and waterways or wetlands.
1649. In my view, the concerns of the submitter are already addressed through the MEP, IrriCalc and/or the nature of water permits. Mr Bright has already addressed the matter of efficiency, and Policy 5.7.6 considers this further, and permits are granted to irrigate a specific crop within a mapped area, so any deviation from that would be a compliance issue. The mapped irrigated area would not include significant indigenous vegetation, waterways or Significant Wetlands, therefore the irrigating of these areas would also be a compliance matter. I do not see the need for any addition policy direction in response to the matters raised in these submissions.

### ***Recommendation***

1650. It is recommended that Policy 5.7.6, and the associated explanation, are retained as notified.

### **Policy 5.7.7**

1651. Policy 5.7.7 reads as follows –

*“Allocate water for domestic needs on the basis of five cubic metres per household per day.”*

1652. There are six submissions<sup>120</sup> that support Policy 5.7.7 and seek its retention as notified.
1653. The Hawkswood Vineyard Limited submission (300.002) seeks that the allocation for domestic needs be 10m<sup>3</sup> per day, or if there is a reduction it should be based on the size of the property and amenity area.
1654. This Policy ensures that where consents are required for domestic water, for example where there are multiple takes from a single well, that they will be allocated water at the same rate as the Permitted Activity for the domestic water abstractions, 5m<sup>3</sup> per day. There have been no submissions seeking to increase the Permitted Activity take (Rule 2.2.1), and only this one to increase the allocation under Policy 5.7.7. The water allocation is intended to supply

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<sup>120</sup> 509.097 (Fish and Game), 712.066 (Flaxbourne Settlers Association), 715.083 (Forest and Bird), 1201.048 (Trustpower Limited), 548.062 (AWUG) and 676.056 (Dairy NZ)



sufficient water for a household, it is not relevant whether the house is on a small rural living property or an extensive rural environment property. If water beyond a household's domestic needs is required, e.g. for large areas of amenity plantings, then it is appropriate that a water permit for irrigation water is sought. There are separate provisions that enable water to be taken other rural uses, such as stock drinking water and incidental water use for farming.

### **Recommendation**

1655. It is recommended that Policy 5.7.7, and the associated explanation, are retained as notified.

### **Policy 5.7.8**

1656. Policy 5.7.8 reads as follows –

*“Approve applications to take and use water for frost fighting purposes only where there are no effective alternative methods for frost control on the property.”*

1657. There are four submissions<sup>121</sup> that support Policy 5.7.8 and seek its retention as notified.

1658. The Constellation submission (631.044) and Yealands Estate Limited submission (1242.038) seek the amendment of the Policy so it essentially only applies to new applications to use water for frost fighting where it has not been previously established. The submitters are of the view that there are a number of vineyards where substantial infrastructure has been installed to control frost by use of overhead sprinklers and the development of that infrastructure has been based on the availability of water out of peak irrigation times for that purpose. Further, there are no direct signals against such use in the current WARMP and the past issue of water permits for such use. The submitters note that s104(2A) of the RMA requires the consent authority to have regard to the value of the investment of the existing consent holder when considering applications for a new resource consent to replace an existing one, and is of the view that this Policy does not take this into consideration.

1659. As the submitters note, investment is a matter to be considered by a decision maker, and this Policy does not negate this, however the inefficiency of using water for frost fighting (from an allocation perspective) is such that a strong policy direction is appropriate. The fact that the current Plans, which are some 20 years old do not identify this is an issue does not mean it is not an issue, there is a lot more technology available now, and the state of the water resources is significantly different. Further, as referenced in the explanation to the Policy, Policy B4 of the NPSFM requires Councils to identify methods to encourage the efficient use of water.

1660. The Horticulture NZ submission (769.033) seeks the amendment of the Policy to clarify the information that would be required to justify use of water for frost fighting, as it is of the view that given the difficulty in establishing frost fans it may not be practical to use such devices. It is unclear what level of evidence on alternative methods would be required.

1661. In some areas the climatic conditions and topography do not result frost fans providing sufficient protection for crops, however these areas are not common or extensive. If the Panel was of a mind, information could be obtained to perhaps enable some mapping to be included in the MEP to identify these areas, however that would result in this Policy being very prescriptive, which may not be so advantageous to water users. This is perhaps one of those situations where there is some tension between providing more certainty or enabling more flexibility within a provision, the submitter may discuss its position on this further at the hearing. At this time, I do not recommend any change in this Policy as a consequence of this submission.

1662. The Pernod Ricard submission (1039.061) seeks the amendment of the Policy to change the words “**effective alternate methods**” to “**reasonably practicable alternate methods**” as the

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<sup>121</sup> 1189.065 (Ngāi Tahu), 778.072 (Irrigation NZ), 548.063 (AWUG) and 676.057 (Dairy NZ)

submitter is of the view that the issue may be overstated, given takes for frost fighting will typically be needed in the winter months when flow levels are higher and less water is required for irrigation. Further, "*reasonably practicable*" is the preferred text as an option might be "*effective*" but not cost effective, or otherwise inappropriate.

1663. This Policy very deliberately links the exception to instances where crops cannot be protected effectively by other means for exactly the reasons outlined in the submission. If the exception applied to broader reasons, then all existing and future users of water for frost protection would simply argue it is more cost effective. This would have no impact on improving the efficiency of water use and would not be consistent with the provisions of the NPSFM. While it is acknowledged that frost fighting with water is often at a different time to irrigation, the actions of viticulturalists present conflicting information for the Council to have to consider in water management. Over the years irrigators have wanted water earlier in spring and later in autumn, and frost protection via water is sought later in spring and earlier in autumn. Even the Prohibited Activity rule preventing frost protection water takes between 1 January and 30 April has received submissions from irrigators (including Pernod Ricard) wanting to be able to do this type of protection during this time. The Council cannot allocate the same water to be used at potentially the same time to multiple parties. If a frost protection water user, that has a viable alternative, locks up an allocation of water for an event or events that may or may not occur, that water cannot be allocated to another party for irrigation water. If that allocation of water for frost protection was actually outside of the irrigation season, then perhaps that would be different but the evidence would seem to suggest that a temporal limitation on takes for frost protection would not be acceptable.
1664. To be clear, this Policy applies to water takes specifically to be used from source directly for frost protection purposes. If a water user has, for example, a Class C water permit to fill a storage dam and that is their source of water for frost protection at a later time, then this Policy does not apply.
1665. The S MacKenzie submission (1124.005) seeks removal of this Policy entirely as he is of the view that this Policy dictates an individual's right to choose which method of frost protection is the most appropriate for their business, and this is not the Council's role.
1666. Under the RMA and the NPSFM the Council has many responsibilities with regards to water management and this can manifest itself in many ways, in this case, ensuring efficient use of water.
1667. The Wairau Valley Residents submission (1235.005) seeks the retention of this Policy but note that the preferred method of frost fighting in the vineyards that are contiguous with the Wairau Valley Township be by water as they are of the view that, while they agree that taking water for frost fighting could be detrimental to river flows, they do not support the stated preferred alternative of wind machines, with their associated noise problems as the use of water sprays is much quieter.
1668. In my view, this is not the appropriate place to address the issue raised, if there is an issue with noise relating to using wind machines for frost protections, this should be addressed in the appropriate provisions in the rural environment/rural living type zones. Potentially if as a consequence of provisions in those parts of the MEP perhaps restricting the use of wind machines in some areas, a farmer could make an argument under Policy 5.7.8 that they are unable to use an alternative to water for frost protection.

### **Recommendation**

1669. It is recommended that Policy 5.7.8, and the associated explanation, are retained as notified.

### **Policy 5.7.9**

1670. Policy 5.7.9 reads as follows –

*“A limitation will be imposed on the maximum rate of use of water for frost fighting purposes of 44 cubic metres per hour per hectare.”*

1671. There are four submissions<sup>122</sup> that support Policy 5.7.9 and seek its retention as notified.

1672. The Horticulture NZ submission (769.034) seeks the amendment of the Policy to enable water takes for frost fighting purposes to be based on the requirements for the specific crop, and to add to the explanation for the Policy that the limitation of 44 cubic metres per hour per hectare may be applied unless the applicant demonstrates a greater requirement. The submitter is of the view that some horticultural crops may require additional water given the nature of the crop so an arbitrary limit is not appropriate.

1673. This rate is the product of an extensive review of the water management regime in the region and I am not aware of any concerns being raised during that process about this rate not being sufficient. There are also no submissions from any horticultural water users (or any water users) concerned about this Policy, which it is noted is supported by Irrigation NZ. Given this, and the lack of any specific details in the submission about crops at risk in Marlborough as a result of this Policy, I am not persuaded that an amendment to this Policy is warranted.

### **Recommendation**

1674. It is recommended that Policy 5.7.9, and the associated explanation, are retained as notified.

### **Policy 5.7.10**

1675. Policy 5.7.10 reads as follows –

*“Avoid taking water for frost fighting purposes during periods of peak irrigation demand (1 January to 30 April in any calendar year).”*

1676. There are four submissions<sup>123</sup> that support Policy 5.7.10 and seek its retention as notified.

1677. The Constellation submission (631.045) and the Yealands Estate Limited submission (1242.039) seek the amendment of this Policy to change “30 April” to “31 March” as they are of the view that occasionally frosts in April can cause considerable damage to a grape crop necessitating use of water for frost control, and this occurs at a time when irrigation demand is decreasing and precipitation rising. Further, the submitters are of the view that Irricalc demonstrates very clearly that April is not a period of peak irrigation demand, therefore there is no sound reason to limit the use of water for frost control in April.

1678. This Policy would apply to a very small number of water users as it would only be crops in situations that could not be protected by alternative means, that would be using water directly for frost protection at all. Given these abstractions are likely in all cases to be from surface water dominated FMUs, there would be direct conflict with irrigators if both activities were occurring in any or all of those months, and as the resource does not contain any significant inbuilt storage, there may be a real-time effect on river flows. And given the use of water for frost protection would be required for everyone in the vicinity as they would likely have the same or similar climatic conditions and topography, there would be the potential for an enhanced effect on the resource as no one would be using an alternative. Again, to clarify, water users frost fighting from water stored at an earlier time are not affected by this Policy.

1679. The Pernod Ricard submission (1039.063) seeks that “avoid” is changed to “generally avoid” as, although water takes for frost fighting purposes are likely to be uncommon during this

<sup>122</sup> 1039.062 (Pernod Ricard), 778.073 (Irrigation NZ), 548.064 (AWUG) and 1124.006 (S MacKenzie)

<sup>123</sup> 1189.066 (Ngāi Tahu), 676.058 (Dairy NZ), 548.065 (AWUG) and 1124.007 (S MacKenzie)

period, the submitter considers that the Policy should be amended to account for any unexpected circumstances.

1680. In essence, by amending this Policy in the manner sought, the submitter seeks to have the Policy no longer be implemented by way of a Prohibited Activity (which it does in its submission directly on the Rule). This, in effect, makes the Policy redundant as a resource consent would be required for the activity if it was not prohibited anyway. It seems that the submitters amendments across the suite of water frost fighting provisions make policies and rules not particularly worthwhile. Pernod Ricard wants to be able to use water if it is economically effective, even if it is not effective from an allocation or efficient use perspective. It wants to be able to use the water for frost protection whenever it wants, regardless of potential conflicts with other users. And, it wants to be able to get a resource consent that will presumably be generic enough to provide for unexpected circumstances. If the Panel is persuaded by the submitter's arguments, then it is likely that there is no benefit to retaining these provisions in the MEP, especially as *all* applications to take water involve an assessment of environmental effects. In my view, an outcome such as this would be unfortunate as the provisions have come out of the review process, which identified that these issues around using water for frost protection needed to be resolved.

1681. The Irrigation NZ submission (778.074) seeks the removal of this Policy as those with existing frost protection infrastructure may need to use it if there is a freak frost event during the irrigation season or they will risk losing their crop. However, the submitter goes on to say that when a frost protection water take expires, based on Policy 5.7.8 (which it supported) an alternative method may be required.

1682. There is no intention, or suggestion in the provisions, to apply this Policy to existing water permits by calling them under a s128 review, therefore it appears the submitters concerns are addressed as existing consent holders can continue their activity until the expiry of their consent, and the submitter supports the preferential use of alternatives going forward. On this basis, it would not be appropriate, or necessary in the context of the justification for the relief sought, to remove this Policy.

1683. The M Croad submission (288.003), the Red Barn Vineyards submission (297.003) and the Hawkswood Vineyard Limited submission (300.003) all oppose ruling around no water to be used from river for direct frost protection between 1 January and 30 April. No further discussion was contained within the submissions. As there is no information provided to justify the opposition or show that frost fighting with water would not conflict with other water users at this time, no changes are recommended to the Policy as a consequence of these submissions.

### **Recommendation**

1684. It is recommended that Policy 5.7.10, and the associated explanation, are retained as notified.

### **Rule 2.6.3**

1685. Rule 2.6.3 is a Prohibited Activity rule that implements Policy 5.7.10, and read as follows –

*“Take of water for frost fighting purposes between 1 January and 30 April in each calendar year”.*

1686. There are two submissions<sup>124</sup> that support Rule 2.6.3 and seek its retention as notified.

1687. The D and C Robbins submission (640.017), G Robb submission (738.020) and the M Robb submission (935.017) seek the status of this activity be changed from Prohibited to Restricted Discretionary. The submitters are of the view that in some seasons there is plenty

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<sup>124</sup> 509.258 (Fish and Game) and 1124.009 (S MacKenzie)

of water around that could be used for dam filling and frost fighting if there are early frosts where as it may be drier earlier or later on. The Pernod Ricard submission (1039.110) is similar, however seeks a change of status to Non-complying, no justification is provided except to say the activity should be able to occur. The Irrigation NZ submission (778.094) also seeks a Non-complying status as in its view it is important to allow for existing activities (consent renewals) if no other frost protection method is available and there is sunk investment.

1688. If this activity was to be changed from Prohibited, it should be at least Discretionary as there is no reason for a water take for frost protection to be more enabled than takes for other purposes (in fact there is justification for it being enabled less). Of course, if it was reduced to a Discretionary Activity it would in effect make the Rule and the associated Policy redundant as a water permit would be required anyway. While some of the submitters give some indication as to why the change is sought, there are no actual rationales given for a Restricted Discretionary or a Non-complying status in particular. The Irrigation NZ submission does not address the issue of conflict between users that these provisions seek to resolve, again, if an exception was made in perpetuity for existing activities of this nature then the Council would not be meeting its obligations under the NPSFM regarding the efficient use of water. I note the reference to dam filling, this Rule is not related to this activity and would not prevent a consent for a water take for that purpose being sought. One further note, these provisions are a product of the review of water management by the WAWG, and the advice of that group was that the canopy of vines was such during these months that frost protection using water was not most effective response to a frost event so it would be likely that this Rule would only catch water users not operating under best practice.

### **Recommendation**

1689. It is recommended that Rule 2.6.3 is retained as notified.

### **Policy 5.7.11**

1690. Policy 5.7.11 reads as follows –

*“Where water is to be stored for the purpose of frost fighting, require a minimum storage volume equivalent to three days of frost fighting demand. In addition, where water is proposed to be taken to replenish stored water used during a frost event, have regard to effect of the rate of refill on other water permit holders and the natural and human use values supported by the source waterbody.”*

1691. There are four submissions<sup>125</sup> that support Policy 5.7.11 and seek its retention as notified.

1692. The Pernod Ricard submission (1039.064) seeks an amendment to the Policy to change “require” to “encourage” as in its view “require” is too strong a direction, as three days storage may not always be practical. Pernod Ricard find it difficult to see what resource management purposes is achieved by the proposed requirement.

1693. Val Wadsworth has considered this submission and provided the following advice –

- Water is used for frost protection in a few vineyards around the district. Because of the very high water requirement (up to 44m<sup>3</sup> per hour per hectare) systems are usually designed to use the water from a short-term storage dam located centrally in the property which allows efficient water distribution. These dams are usually filled from a large surface water resource. Taking frost protection water directly from a river or stream will result in a very large take from the river for a short period of time. For instance, a 100ha vineyard would require 4,400m<sup>3</sup>/hour, or 1222 litres per second for

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<sup>125</sup> 778.075 (Irrigation NZ), 676.059 (Dairy NZ), 548.066 (AWUG) and 1124.008 (S MacKenzie)

up to 10 hours during a severe frost event. Few of our water resources can sustain takes of this magnitude, and dealing with frost takes wanting precedence over routine storage takes has been an issue in the past, given that frost protection water may only be required 5-10 days per year.

- Obviously if a frost protection storage dam only holds sufficient water for one night's frost protection, and there is a strong likelihood of frost events occurring in a series of two or even three nights in a row, then to refill that volume over 24 hours the fill rate would be 30-40% of the full frost protection rate, presuming the vineyard was equipped with separate take and frost protection pumps. However, Council is aware of some situations where vineyards have used the same pump for both tasks, this means they have to switch over, and rapidly refill their dams during the day at a rate about 50-80% of the frost protection rate. Both situations put significant short-term pressure on the resource, and can potentially "lock up" allocation, prevent other users from gaining access to that resource.
- For this reason, the WAWG recommended a minimum storage volume to ensure that a frost series of three consecutive days can be managed without emergency refilling, and also that when considering refill rates of frost protection dams that consideration be given to other users. Consideration was given to putting a numerical limit on refilling rates, but a less regulatory option was chosen.
- Having a Policy such as this gives clear guidance to applicants and decision makers about frost protection systems; leaving it open to individual choice can result in users taking the cheapest option, with potential adverse effects on the environment.

1694. In my view, it is clear from the advice of Mr Wadsworth that there are resource management purposes behind this provision, and I am aware from my own experiences that the need to refill dams immediately, and at a very high rate, has adverse effects on the environment, other users and the ability of the Council to achieve allocative efficiency. I also note that the submitter seeks that the Policy "encourage" three days storage, however no information is provided as to what the encouragement would be – a rule, a rule status, a method, guidance material? I am in agreement with Mr Wadsworth that the Policy should be retained without alteration.

### ***Recommendation***

1695. It is recommended that Policy 5.7.11, and the associated explanation, are retained as notified.

## **Matter 8: Demand for water typically peaks when river flows and aquifer levels are at their lowest, which can cause short-term water availability issues.**

1696. Matter 8 includes - Issue 5H, Objective 5.8 and Policies 5.8.1 to 5.8.5 (inclusive). Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

### **Issue 5H**

1697. Issue 5H reads as follows –

*"Demand for water typically peaks when river flows and aquifer levels are at their lowest, which can cause short-term water availability issues."*

1698. There are four submissions<sup>126</sup> that support Issue 5H and seek its retention as notified.

1699. The Dairy NZ submission (676.060) seeks an amendment to the penultimate sentence in the explanation to the issue to reference reduced pasture growth and production. The submitter recognises that water availability is a key issue for the Marlborough region, it supports the need to elucidate the potential significance of this issue on dairy farmers, and it also supports the Council's efforts to address potential short-term water availability issues.

1700. I do not have a particularly strong view regarding the relief sought. My main concern would be if the explanation highlighted any particular industry. At the moment I do not really think it does, however the addition sought is quite broad too. Overall, I am comfortable with the amendment sought. The specific amended wording is in the Recommended section below.

1701. The Hawksbury Farm Limited submission (767.007) discusses a lot of matters, and alludes to some possible changes, but does not have a clear and specific relief sought for which I find I can make an assessment and recommendation at this time. The submitter suggests the Council should adopt a more open view to the storage of water with more flexibility, people with SVIS water should be urged to use this to take the pressure off groundwater, and new resource consent applications for water should be tied to storage. In reading the submission, it may be that there are provisions in the Plan, or consequences of provisions in the Plan, that the submitter has not picked up on, and therefore some concerns may already be addressed to some degree.

### **Recommendation**

1702. It is recommended that Issue 5H is retained as notified.

1703. It is recommended that the explanation to Issue 5H is amended as follows –

*“Marlborough typically experiences a dry climate.....In such circumstances there is the potential for failure of crops, **reduced pasture growth** or at least reduced yield/production. Given the importance.....”*

### **Objective 5.8**

1704. Objective 5.8 reads as follows –

*“Maximise the availability of water within the limits of the resource.”*

1705. There are 18 submissions<sup>127</sup> that support Objective 5.8 and seek its retention as notified.

1706. The Lion submission (908.009) seeks amendment of the Objective and supporting Policies to provide a more appropriate and considered method for providing reasonable availability as, while it generally supports the provisions, it considers that in encouraging storage, the provisions should enable the consideration of the cost of such facilities and the availability of aquifers to achieve the same outcome.

1707. I find the lack of specificity in the submission means I cannot make an assessment or recommendation on this submission at this time.

1708. The Forest and Bird submission (715.089) seeks amendment of the Objective to recognise that limits include adequate provision for instream biodiversity during low flows, as the

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<sup>126</sup> 455.016 (J Hickman), 456.016 (G Mehlhopt), 509.098 (Fish and Game), and 715.088 (Forest and Bird)

<sup>127</sup> 1237.010 (Willowgrove Dairies Limited), 1039.065 (Pernod Ricard), 509.099 (Fish and Game), 1189.067 (Ngāi Tahu), 462.055 (BRIL), 457.025 (Accolade), 472.004 (ME Taylor Limited), 455.017 (J Hickman), 456.017 (G Mehlhopt), 431.025 (Wine Marlborough), 454.132 (K Loe), 1218.023 (Villa Maria), 473.022 (Delegat Limited), 776.017 (Indevin Estates Limited), 484.028 (Clintondale), 970.006 (Middlehurst Station Limited), 909.023 (Longfield Farm Limited) and 676.061 (Dairy NZ)

submitter is of the view that this Objective does not adequately provide for protection of biodiversity.

1709. It is not the role of this Objective to “provide” for the protection of biodiversity. It appropriately references limits, however the setting of those limits to maintain natural and human use values is done elsewhere in Chapter 5. I do not support the relief sought.

1710. The Te Ātiawa submission (1186.045) seeks amendment of the Objective to account for cultural values in considering availability. The submitter opposes the maximisation of the availability of water resource which does not account for any cultural values. The maximum sustainable yield proposed is purely ecologically based and no consideration is provided for cultural or spiritual matters (mana of the waterbody). Availability should account for these values.

1711. As indicated above, the limits are set to maintain natural and human use values, including protecting mauri, and this is set out under Issue 5B. If those limits are not appropriate then that, or Appendix 6, are the places to address concerns. I do not support the relief sought in the context of this suite of provisions.

### **Recommendation**

1712. It is recommended that Objective 5.8, and its associated explanation, are retained as notified.

#### **Policy 5.8.1**

1713. Policy 5.8.1 reads as follows –

*“Encourage the storage of water as an effective response to seasonal water availability issues.”*

1714. There are 18 submissions<sup>128</sup> that support Policy 5.8.1 and seek its retention as notified.

1715. The EDS submission (698.035) seeks amendment of the Policy as follows – *“Encourage the storage of water as an effective response to seasonal water availability issues **where storage is consistent with safeguarding ecosystem health**”*, with similar amendments to the explanation to the Policy.

1716. The submitter is of the view that storage can have significant adverse effects on ecosystem health, either through changes in flow or as a result of the increased use that storage provides for and the effects of that use on water quality. Water storage should not be encouraged unless it is consistent with safeguarding ecosystem health and achieving water quality targets. It is critical that this link between increased access to quantity and increased use, and water quality, is identified in order to prevent perverse outcomes. The Ngāi Tahu submission (1189.068) seeks similar relief.

1717. As discussed above in relation other submissions, the Objective, which this Policy responds to, appropriately references limits, and the setting of those limits to maintain natural and human use values is done elsewhere in Chapter 5. Water quality issues associated with damming water within the bed of a river are also addressed elsewhere in Chapter 5, and other parts of the MEP, such as Chapter 15. The premise of this suite of provisions is that any water taken is within the limits set in the Plan.

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<sup>128</sup> 425.071 (Federated Farmers), 1251.018 (Fonterra), 1039.066 (Pernod Ricard), 509.100 (Fish and Game), 462.056 (BRIL), 457.026 (Accolade), 455.019 (J Hickman), 456.019 (G Mehlhopt), 548.067 (AWUG), 631.019 (Constellation), 431.026 (Wine Marlborough), 454.133 (K Loe), 1242.019 (Yealands Estate Limited), 1218.024 (Villa Maria), 473.023 (Delegat Limited), 776.018 (Indevin Estates Limited), 778.078 (Irrigation NZ), 504.011 (QCS Residents), 715.090 (Forest and Bird), 769.035 (Horticulture NZ), 1124.042 (S MacKenzie), 484.029 (Clintondale), 909.024 (Longfield Farm Limited) and 676.062 (Dairy NZ)



## **Recommendation**

1718. It is recommended that Policy 5.8.1, and its associated explanation, are retained as notified.

### **Rule 2.4.1**

1719. Rule 2.4.1 is a Controlled Activity rule that implements Policy 5.8.2, and read as follows –

*“Take and damming C Class water for the purpose of retaining water in storage for subsequent use”.*

1720. There are 15 submissions<sup>129</sup> that support Policy Rule 2.4.1 and seek its retention as notified.

1721. The Fish and Game submission (509.250) seeks for the Controlled Activity Rule to be replaced with a Discretionary Activity rule that only provides for the take and damming of C Class water during periods of high flow. The submitter is of the view that this will ensure that all potential adverse effects of the proposed activity are avoided, remedied or mitigated as appropriate. The activity should also only be provided for during period of high flow, when the waterbody is above median flow, and takes cumulatively do not cause it to drop below.

1722. Class C water has been granted by way of Controlled Activity status resource consents during the life of the WARMP, and the Council is not aware of any issues that have arisen as a result of this approach, nor has the submitter identified any in its submission. The matter of Class C water only being available to be allocated when the flow in a waterbody is above the above median is addressed in the assessment of Fish and Games submission on the next provision (Policy 5.8.2). I note that there is strong opposition to this submission from further submitters. I am not persuaded by the submission to make the change sought to the existing approach to providing for the taking of higher flow water by way of a Controlled Activity Rule, which appropriately implements the Policies under Issue 5H. From a technical perspective, if the Panel was of a mind to accept the relief sought, only the removal of Rule 2.4.1 would be required as then the existing Discretionary Activity Rule 2.5.2 would apply anyway, i.e. there would be no need to add a new Discretionary Activity rule to the MEP as sought.

1723. The Ngāi Tahu submission (1189.113) seeks for the status of the Controlled Activity Rule to be changed to a Restricted Discretionary Activity rule. The submitter is of the view that, to be consistent with the Kaikoura IMP, applications to take and dam water for the purposes of storage should require an assessment of the effects of that activity. In some instances, the activity will be inappropriate, and it is considered that the Council should retain the ability to decline the application.

1724. Much like the assessment of the Fish and Game, I go back to this being the continuation of an approach that has been in place for around two decades. I am not aware of any instances where the Council had to grant a Class C water permit, because of the Controlled Activity status, and would have otherwise refused it if that option was available. This Rule in no way enables the construction of any dam, in or out of stream, it is only about the taking and damming of water within the Class C limits. I am not persuaded by the submission that this activity should be elevated to a higher status, I am comfortable that this approach has worked under the WARMP, and the matters over which the Council reserves control are adequate to consider any potential adverse effects.

1725. The DOC submission (479.159) seeks for the Rule removed from the MEP, or that additional matters for which the Council reserves control are added to give effect to Policies 5.8.3 and 5.8.4. The submitter is of the view that the efficiency of the take to storage should be

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<sup>129</sup> 425.447 (Federated Farmers), 1039.107 (Pernod Ricard), 462.013 (BRIL), 457.051 (Accolade), 548.116 (AWUG), 631.023 (Constellation), 431.051 (Wine Marlborough), 1242.021 (Yealands Estate Limited), 1218.042 (Villa Maria), 473.037 (Delegat Limited), 776.031 (Indevin Estates Limited), 778.092 (Irrigation NZ), 769.080 (Horticulture NZ), 484.055 (Clintondale) and 909.042 (Longfield Farm Limited)

considered as part of this Rule to ensure the take does not exceed demand requirements. The matters for control should include consideration of the rate of take as per Policy 5.8.3, and the annual volume of storage water as per Policy 5.8.4. The benefits of water storage are acknowledged as a strategy for buffering periods of low flow, and takes during periods of high flow are preferred over takes at much lower flows.

1726. Policy 5.8.3 does not apply to Class C water, therefore it would not be appropriate to amend the Rule in any way to reflect that provision. Policy 5.8.4 would be taken into consideration by a decision maker and, in my view, the first matter the Council reserves control over, “allocation”, enables that provision to be given effect to, i.e. in terms of the volume of water allocated for storage under a permit, it would only be a volume that equated to 2 years irrigation need. I do not consider that this Rule needs to be amended to respond to the concerns raised by the submitter.

### **Recommendation**

1727. It is recommended that Rule 2.4.1 is retained as notified.

### **Policy 5.8.2**

1728. Policy 5.8.2 reads as follows –

*“Provide for the abstraction of surface water for storage purposes during periods of higher flow for subsequent use during periods of low flow (and therefore low water availability).”*

1729. There are 23 submissions<sup>130</sup> that support Policy 5.8.2 and seek its retention as notified.

1730. The Fish and Game submission (509.101) seeks to retain the Policy with amendments that ensure that the appropriate timing of takes for storage is reflected in the Policy including the waterbody being above median flow, and that the take is no more than 20% of the flow at that time and that the take does not cause a lowering of or below median flow.

1731. This submission has been considered by Val Wadsworth and the following is his advice –

- In essence, Fish and Game have submitted that Class C takes should only be available if flows are maintained above median flow.
- Class C thresholds were originally set at about the 80%ile value for availability. Class C allocations have only been made on five of our bigger rivers so far. Presumably this submission is looking to maintain higher flows, and therefore provide environmental benefits, although these have not been quantified.
- From a user’s perspective higher thresholds will reduce the availability of Class C water, which will result in the need for larger storage, bigger pumps or both. This will result in additional costs to the region overall.
- The following table sets out the current Class C thresholds, and the thresholds which would apply if this submission were adopted. Three of the five figures are at close to the intended 80% availability figure as expected, the exceptions are the Omaka where the Class C figure has actually been set considerably higher, as it was intended to try and preserve surface flow in the intermittently flowing reach of the Omaka River for fish

<sup>130</sup> 425.072 (Federated Farmers), 1251.019 (Fonterra), 1039.067 (Pernod Ricard), 462.057 (BRIL), 457.027 (Accolade), 472.005 (ME Taylor Limited), 455.020 (J Hickman), 456.020 (G Mehlhopt), 548.068 (AWUG), 631.020 (Constellation), 431.027 (Wine Marlborough), 454.134 (K Loe), 1242.020 (Yealands Estate Limited), 1218.025 (Villa Maria), 473.024 (Delegat Limited), 776.019 (Indevin Estates Limited), 778.077 (Irrigation NZ), 715.091 (Forest and Bird), 769.036 (Horticulture NZ), 1124.043 (S MacKenzie), 484.030 (Clintondale), 909.025 (Longfield Farm Limited) and 676.063 (Dairy NZ)

passage reasons, and the Flaxbourne, where the limits have been set high to recognise the complex flow regime which exists in that river.

- The exceptions show that a one size fits all rule may actually disadvantage some of our smaller water resources, and that there is some merit for having locally based limits, recognising the individuality of each river regime.

| River         | Current C threshold | Current C availability | Proposed C threshold | Proposed C availability |
|---------------|---------------------|------------------------|----------------------|-------------------------|
| Awatere       | 5.6 m3/s            | 76%                    | 9.66 m3/s            | 50%                     |
| Omaka         | 1.200 m3/s          | 21%                    | 0.470 m3/s           | 50%                     |
| Wairau        | 30 m3/s             | 78%                    | 61 m3/s              | 50%                     |
| Flaxbourne C1 | 0.25                | 28%                    | 0.096 m3/s           | 50%                     |
| C2            | 0.40                | 20%                    |                      |                         |
| C3            | 0.60                | 15%                    |                      |                         |
| Waihopai      | 3.6 m3/s            | 80%                    | 6.78 m3/s            | 50%                     |

- Val notes that it is not within his area of expertise to quantify the benefits of various thresholds to the environment; and that hopefully the submitter will provide relevant information.

1732. As Mr Wadsworth notes, under the submitter’s approach there will be some benefits to the instream environment for bigger rivers, but some smaller rivers may actually be adversely affected. And, there will be certainty and financial implications for existing and future irrigators. I think that this submission highlights a concern held by Councils Planning and Environmental Science staff about the one-size-fits-all approach sought by Fish and Game in the setting of all the environmental flows across its submissions. The MEP is not a document that is starting from scratch, it takes into account water management under the operative Plans that has been ongoing for over 20 years, and the information/knowledge that has been built up over that time. There are all sorts of reasons a regime for a specific water resource may differ from a standardised approach, and usually these variances are to protect some aspect of the instream environment. The submitter has not provided sufficient information to support its one-size-fits-all approach, in particular it does not appear to have considered the ramifications for the environment, relative to each affected river, of this change in approach to setting limits for Class C water.

### **Recommendation**

1733. It is recommended that Policy 5.8.2, and its associated explanation, are retained as notified.

### **Policy 5.8.3**

1734. Policy 5.8.3 reads as follows –

*“Water may be stored at times other than those specified in Policy 5.8.2 to provide water users with greater flexibility to manage water use on-site, provided that the rate of take does not exceed the authorised daily rate of take for irrigation purposes.”*

1735. There are 14 submissions<sup>131</sup> that support Policy 5.8.3 and seek its retention as notified.

<sup>131</sup> 249.005 (J Jones), 425.073 (Federated Farmers), 1039.068 (Pernod Ricard), 472.006 (ME Taylor Limited), 455.021 (J Hickman), 456.021 (G Mehlhopt), 454.135 (K Loe), 778.078 (Irrigation NZ), 715.092 (Forest and Bird), 769.037 (Horticulture NZ), 1124.002 and 1124.044 (S MacKenzie), 484.031 (Clintondale) and 676.064 (Dairy NZ)

1736. There are 10 submissions<sup>132</sup> that seek amendments to the Policy and its explanation. I have read, and reread, the submissions and the provision and I struggle to see how the Policy and the associated explanation do not do what the submitters are seeking. It would seem that I must be missing something, as it appears to me that the submitters can conduct their activities as sought without any amendment of the provision being required. In an attempt to understand, I am going to break down the provision/explanation and the submissions in detail.

1737. The submitters state they support the principle that Class A and B water can be pumped into storage at the maximum daily rate of take for irrigation purposes, as this provides the opportunity to fill storage on the shoulders of the irrigation season (Spring & Autumn) and also top-up storage when there is spare pumping capacity during the main irrigation season after a rain event. This regime is currently consented for a large number of surface water permits, and has proven to provide greater flexibility and more efficient use of the water resource.

1738. In my view, this is precisely what the Policy provides for, hence my confusion.

1739. The submitters seek the amendment of the Policy as follows –

***“In addition to the storage of water as per Policy 5.8.2, Class A and B water may also be stored Water may be stored at times other than those specified in Policy 5.8.2 to provide water users with greater flexibility to manage water use on-site, provided that the rate of take does not exceed the authorised maximum daily rate of take for irrigation purposes.”***

1740. So, “water may be stored at times other than those specified in Policy 5.8.2”, i.e. water other than when in high flow (Class C) may be stored, and the explanation makes it quite clear that essentially means Class A and B – “This Policy recognises these circumstances by enabling the storage of Class A and Class B water”. The only real difference I can see is that the words Class A and B are used in the Policy under the amended wording, but that does not change the meaning of the Policy. If this is for some reason the issue, I do not support the specific reference to Class A and B in the Policy itself. The Class system is a method of giving effect to various policies in the MEP, and it would be inconsistent with other provisions, e.g. Policy 5.8.2 is given effect to by way of Class C allocations but the Policy does not specify “Class C”. There is also the potential for environmental limits to be established by way of the default provisions (Policies 5.2.7 and 5.2.14). These may fit the existing description of water under Policies 5.8.2 and 5.8.3, i.e. it is low or high flow, but the Policies would not apply if the Classes were specified in the Policies, as those permits would not have an allocation under the Class regime in Appendix 6. The explanation to Policy 5.8.3 alludes to this when it refers to storing water at times other than those specified in Policy 5.8.2 including, “when access to Class C water may otherwise be restricted or where no Class C has been established” (i.e. Policy 5.8.2 does not only apply to water specifically labelled Class C).

1741. The submitters also seek the addition of the word “maximum” to the phrase “authorised daily rate of take”. Apart from again not understanding the necessity if this addition, I would be concerned that its inclusion would imply there is more than one rate of take. A water permit to take water from a river will, under Policy 5.3.9, be for an authorised daily take of  $x \text{ m}^3/\text{day}$ . This is a single number that can be taken any day during the irrigation season under the particular consent, typically September/October through to April. That is the “authorised daily rate of take” and Policy 5.8.2 states that water users cannot exceed the “authorised daily rate of take”, therefore permit holders can clearly take all of the daily take rate, the addition of the word “maximum” is superfluous and potentially confusing.

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<sup>132</sup> 909.062 (Longfield Farm Limited), 457.028 (Accolade), 910.002 (Lower Waihopai Irrigation Company), 777.003 (Investavine Limited), 548.069 (AWUG), 462.030 (BRIL), 431.072 (Wine Marlborough), 1218.063 (Villa Maria), 473.025 (Delegat Limited) and 776.020 (Indevin Estates Limited)

1742. With regards to the explanation to Policy 5.8.3, the submitters want to replace the last paragraph, which reads –

*“For this reason, the policy limits the rate of take of water for storage purposes to the authorised daily take for irrigation purposes. This still provides the consent holder with flexibility to decide how water will be used on any given day, but also ensures that the abstraction would have no greater effect on existing users than the daily take solely for irrigation purposes.”*

1743. With the following text –

*“The policy provides the consent holder with flexibility to decide how water will be used on any given day. However, the policy limits the rate of take of Class A and B water for storage to the authorised maximum daily rate of take for irrigation purposes. The total volume of water that can be physically stored will limit the number of consecutive days that a consent holder will pump to storage along with the competing need to utilise the water allocation to provide direct irrigation.”*

1744. I have considered all of the relief sought in depth and ultimately conclude that nothing needs to be changed. The entire Policy, and explanation, are framed around the daily take rate, a single number that does not change from one end of the irrigation season to the other. At this point, I am wondering if the submitters perceive that the Policy will be implemented a different way and that is the basis of the amendments sought. Based on the content of the submissions as presented, relative to the provisions, I do not recommend any changes as a consequence of these submissions.

1745. The Fish and Game submission (509.102) seeks to retain the Policy with amendments that ensure that the take of water is not beyond the limits set. A similar submission (509.103) was lodged on Policy 5.8.4.

1746. This Policy is about placing water in storage within the bounds of an established daily take rate, that will have been based on the provisions of the Plan for granting water permits, i.e. it will be within environmental limits. The relief sought is unnecessary and out of context.

1747. The Constellation submission (631.046) and the Yealands Estate Limited submission (1242.040) seek to amend the Policy to add exemptions to the limitation on the rate of take in the following circumstances –

- Due to the narrow window of opportunity afforded by the higher sediment loads that can be carried in the Awatere River, higher rates of take of Class B water may be considered from the Awatere River in April and May if Class C water is not available, provided that the rate of take does not exceed the authorised monthly rate of take for irrigation purposes.
- Community Irrigation and water supply schemes.

1748. The submitters are of the view that because of the high sediment load in the Awatere River, it is necessary to wait for appropriate times when sediment levels drop before pumping to fill water reservoirs, and in order to fill reservoirs before the next fresh in the river and before high winter power charges cut in, it is necessary to pump at relatively high rates. The combination of these two factors often means that there is a very limited window of opportunity to fill reservoirs in the autumn/early winter period. Sometimes Class C water is not available when this situation occurs, and it does occur at a time when Class A and B irrigation demand has dropped off considerably. In addition, a number of irrigation schemes take Class B water for use of stock, domestic, irrigation and storage purposes. Individual members of those water schemes can choose individually whether they use their water allocation for irrigation or storage. This Policy needs to exempt those schemes.

1749. These two submissions have been considered by Val Wadsworth, and the following is his advice –

- With all due respect, these submitters obviously do not realise what the result of this change would be to the river environment. Allowing unrestricted instantaneous takes of water from a river, being accounted for on a monthly basis only would lead to the very real possibility of rivers being dried up on a daily basis. This would particularly be the case in the Awatere, where users would all wait until the river cleared, and then all take at an unrestricted volume to refill dams.
- This submission is also contrary to the requirements of the NPSFM, under which Council is required to put limits on abstraction.

1750. I concur with the advice of Mr Wadsworth, and on this basis, do not support the relief sought.

1751. The Fonterra submission (1251.020) seeks to amend the Policy as follows – “*Water may be stored at times other than those specified in Policy 5.8.2 to provide water users with greater flexibility to manage water use on-site, provided that, **where the consented use of water is for irrigation purposes**, the rate of take does not exceed the authorised daily rate of take for irrigation purposes.*” The submitter is of the view that the Policy 5.8.3 should not exclude the possibility that water storage may occur for purposes other than irrigation.

1752. While not incorrect in intent perhaps, I am not of a mind to agree with the submitter that this particular Policy needs to be amended to recognise storage for non-irrigation purposes. And regardless, I do not consider that the specific amendments sought address the concern appropriately anyway. The secondary use of Class A or B water for storage for non-irrigation purposes would be a relatively minor activity. There is nothing in this suite of provisions that would particularly prevent an applicant for such an activity being treated “in kind” if such a circumstance arose, although I am struggling to think of one. The submitter may be able to give some examples that would assist in understanding potential circumstances that should be addressed, however subject to further information, I do not support the relief sought.

### **Recommendation**

1753. It is recommended that Policy 5.8.3, and its associated explanation, are retained as notified.

### **New Policy**

1754. There are 12 submissions<sup>133</sup> that seek a new Policy under Objective 5.8 to read as follows –

*“Aquifer water may be abstracted to storage at all times to provide water users with greater flexibility to manage water use on-site and to ensure that in the event of aquifer minimum levels being reached an alternate supply of water may be available. If aquifer water is abstracted to storage during the irrigation season the total abstraction for storage and direct irrigation must not exceed the reasonable use demand allocation.”*

1755. The submitters state that the MEP is silent regarding the abstraction of groundwater for the purposes of placing into storage. The MEP sets minimum levels for FMUs dominated by aquifers which will impact upon abstractions from those aquifers. It is submitter that the MEP must provide clear direction that it is appropriate to abstract groundwater to place into storage for use when minimum aquifer levels have been reached and direct abstraction of water for irrigation and other uses is restricted or shut down.

1756. These submissions have been considered by Peter Davidson and the following is his advice –

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<sup>133</sup> 359.005 (WilkesRM Limited), 909.083 (Longfield Farm Limited), 457.071 (Accolade), 431.088 (Wine Marlborough), 1218.082 (Villa Maria), 473.074 (Delegat Limited), 1159.004 (Spring Creek Vintners) 975.001 (Mufaletta), 966.004 (Marlborough Research Centre Trust), 844.002 (K & L Morgan), 1162.003 (T & S Jeffries et al.) and 776.044 (Indevin Estates Limited)

- The submissions are correct that the MEP does not define what groundwater is surplus and could be stored when environmental thresholds are reached.
- It is fair to say MDC hydrologists are still coming to grips with the reservoir characteristics of the Wairau Aquifer.
- MDC appreciate that wineries and irrigators need surety around alternative sources of water during periods of restrictions.
- MDC have made the definition of what constitutes surplus Wairau Plain water a priority as part of its 2018/19 hydrological research programme.
- Given the heavily committed nature of most Wairau Plain aquifers there is likely to be limited opportunities.
- If a dam can be filled with groundwater during periods of low demand when it is not needed for irrigating crops and operating within the sustainable limit, then this is a feasible.
- I appreciate this is an important issue for irrigators and wineries and it warrants more work.

1757. I have considered the relief sought in the context of Peter Davidson's advice, and the overall water management regime and I am inclined to not support the new policy at this time. I am mindful that while, as the submitters point out, the MEP is silent on this activity, it also does not contain policy direction discouraging it or preventing an application being made. In my view, the proposed policy would amount to encouraging the storage of aquifer water, and given the advice and the overallocated nature of all of the aquifers, that does not sit comfortably at this time. The issue is well understood, however the recommendation is to not add the provision at this time and maintain the position in the MEP that, while it is not actively encouraged, resource consent can be sought and will be assessed on a case-by-case basis.

1758. Should the Panel be of a mind to add the policy to the Plan, then I would seek the opportunity to further consider the specific wording of the policy. I particularly note the indication in the policy to take water for storage during the irrigation season, which seems to be in conflict with Mr Davidson's comments on even the potential storage of aquifer water occurring during periods of low demand. I further note that it would be appropriate for an explanation to the Policy to be drafted.

### **Recommendation**

1759. It is recommended that the additional policy is not added to the MEP at this time.

### **Policy 5.8.4**

1760. Policy 5.8.4 reads as follows –

*“The annual volume of water taken for storage shall not exceed a volume equivalent to the authorised rate of take for irrigation purposes for two irrigation seasons for the property or properties to be served by the stored water.”*

1761. There are eight submissions<sup>134</sup> that support Policy 5.8.4 and seek its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of other submissions, the recommendation for these eight submissions in Appendix 1 are recorded as accepted in part.

<sup>134</sup> 1039.069 (Pernod Ricard), 455.022 (J Hickman), 456.022 (G Mehlhopt), 548.070 (AWUG), 778.079 (Irrigation NZ), 715.093 (Forest and Bird), 1124.045 (S MacKenzie) and 676.065 (Dairy NZ)

1762. The K Loe submission (454.136) seeks amendment of the Policy to enable more than the equivalent of two irrigation seasons of water to be taken in remote locations as dams in some remote farmed areas may need to accommodate more than two years storage due to ongoing drought years. Similarly, the Flaxbourne Settlers Association submission (712.008) seeks amendment of the Policy to acknowledge that storage in dams in the Flaxbourne area may need to accommodate more than two years storage due to ongoing drought years as dams are an important method of providing stock with drinking water supply in the Flaxbourne area given the extreme seasonal water shortages. Dams need to be encouraged and supported as an efficient means of providing stock water supply during dry times. The Flaxbourne Settlers Association lodges the same submission on Objective 5.8, and Policies 5.8.1, 5.8.2 and 5.8.3 (712.004, 712.005, 712.006 and 712.007).

1763. These submissions have been considered by Val Wadsworth and his advice is –

- That this Policy is intended to restrict the opportunity to “bank” water in storage, which is an inefficient practice and can restrict the ability of other users to access water.
- Both of these submissions seem to focus on stock water dams, which is not what this Policy is about. They also seem to confuse the taking of water to storage, with the size of the storage dam, which are generally the same in the case of on-stream dams, but not the same for off stream dams, which is the preference to avoid impacts.

1764. Val has suggested some minor amendments of the Policy and its explanation, which may limit any future misunderstanding of the intent of the provision, and alleviate the submitters concerns. I agree that these changes would be of assistance, and the specific amendments are in the Recommended section below. I have recorded these submissions as accepted in part as, while we may have addressed the submitters concerns to some extent, we did not accept their relief as exactly sought.

1765. The Federated Farmers submission (425.074) seeks that the Policy should be amended as follows – *“The annual volume of water taken for storage shall not exceed a volume equivalent to the authorised rate of take for irrigation purposes for two irrigation seasons for the property or properties to be served by the stored water **the amount required for reasonable use.**”* The submitter is of the view that this Policy does not assist resource users with the utilisation of water storage methods that allow for confidence in water supply. By restricting resource users to a volume of water storage, or dam size, will inhibit the capacity of resource users to store water for dry summers and other times when rainfall may be below average. This Policy does not allow for future proofing or growth, and is short sited in a region that is water short. Federated Farmers submits that the volume of water taken for storage shall not be limited to two irrigation seasons, but rather reasonable use.

1766. The outcome of the relief sought could potentially be to reduce the amount of water that can be taken to storage for later use. In the absence of any other text in the provision, the submitters suggestion of “reasonable use” being the volume that can be taken to storage each year would likely be interpreted as the reasonable use amount as calculated using Irricalc, or similar. Therefore, it would be only half the volume provided for under this Policy. In my view, the submitter has not thought through the ramifications of the relief sought, and does not have a solid understanding of water storage in general in Marlborough. I do not support the relief sought.

1767. The Fonterra submission (1251.021) seeks that the Policy should be amended as follows – *“The annual volume of water taken for storage shall not exceed a volume equivalent to the authorised rate of take for irrigation purposes for two irrigation seasons **years** for the property or properties to be served by the stored water.”* The submitter is of the view that, while irrigation users are most likely to benefit from the storage of water, the Policy should be worded to ensure that all uses are appropriately managed.



1768. This submission is similar to that lodged on Policy 5.8.3, and really my comments are not dissimilar either. These Policies are written around irrigation and, while I appreciate the intent of the submitter, I am not confident that just deleting a couple of words here and there is sufficient to transition these provisions to having a wider application. It does occur to me that as notified, the submitters clients/members who store water for non-irrigation purposes would not be restricted in the way irrigators are under this Policy, so the relief sought would potentially disadvantage the parties Fonterra represents. As mentioned before, it would be helpful if the submitter could provide some examples to assist in understanding if there is a gap in the provisions generally that needs to be addressed. Subject to further information, I do not support the relief sought at this time.

### **Recommendation**

1769. It is recommended that Policy 5.8.4 is amended as follows –

*“The annual volume of water taken for storage **for irrigation purposes** shall not exceed a volume equivalent to the authorised rate of take for irrigation purposes for two irrigation seasons for the property or properties to be served by the stored water.”*

1770. It is recommended that the explanation to Policy 5.8.4 is amended as follows –

*“This policy ensures that water taken **from a water resource** for storage is not excessive relative to the use(s) to which it is eventually to be put. Excessive **taking of water to storage of water** may frustrate the attempts of other users to access water by fully allocating the C class or through interference effects caused by the rate of take from the source waterbody. The policy provides a threshold for appropriate **takes to storage** that reflects that the stored water should be sufficient to provide for irrigation needs for two seasons. This is reasonable in Marlborough’s dry climate where consecutive dry summers have historically occurred.”*

### **Policy 5.8.5**

1771. Policy 5.8.5 reads as follows –

*“All water placed in storage should be accurately accounted for.”*

1772. There are nine submissions<sup>135</sup> that support Policy 5.8.5 and seek its retention as notified.

1773. The Fish and Game submission (509.104) seeks to amend the Policy to provide greater clarity around the Council’s desired method for accounting for water storage as without an accurate record of stored water, the Council is unable to be certain of the amount of water stored, which proves difficult to ensure compliance with resource consent conditions. The Policy could be more specific however to provide applicants and Plan users with a consistent and appropriate method for accounting for stored water.

1774. The explanation to the Policy explains very clearly why this provision is not prescriptive. Despite the submitter’s view that more specificity would benefit applicants, the feedback received during the review very much supported the approach taken in this Policy. I do not recommend any changes to the Policy as a consequence of this submission.

### **Recommendation**

1775. It is recommended that Policy 5.8.5, and its associated explanation, are retained as notified.

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<sup>135</sup> 425.075 (Federated Farmers), 1039.070 (Pernod Ricard), 455.023 (J Hickman), 456.023 (G Mehlhopt), 548.071 (AWUG), 778.080 (Irrigation NZ), 715.094 (Forest and Bird), 961.007 (Chamber) and 676.066 (Dairy NZ)

## **Matter 9: There is the potential for a new water user to get access to water on a more reliable basis than allocations already made, resulting in inequitable outcomes.**

1776. Matter 9 includes - Issue 5I, Objective 5.9 and Policies 5.9.1 to 5.8.3 (inclusive). Where appropriate other provisions from Volumes 2, 3 and 4 may also be covered in association with these higher provisions.

1777. Freshwater in Marlborough has become a scarce resource in many freshwater management units as resource limits are approached (if not already reached). This results in competition for available water. Policy 5.3.6 identifies that the first-in, first served method of allocation is efficient and effective for dealing with this competition prior to allocation limits being reached for the first time. However, once the water resource is fully allocated, there are some circumstances under which that allocated water could become available for re-allocation.

1778. Water users have identified as a concern the ability for existing or potential users to gain access to that water through the first-in, first-served method of allocation. Water that becomes available will have an inherent reliability depending on when that water was first allocated relative to other subsequent allocations. If the application is granted, the successful applicant may gain access to water under more favourable circumstances than other users granted water later than the original permit was granted. This is considered an inequitable outcome and one that could see the competition for water resulting in community conflict.

1779. The suite of provisions under Matter 9 are an alternative to the first-in, first served approach that would be used in circumstances where previously allocated water is received back into the allocation pool and can be reallocated. These provisions would not apply to any water freed up within overallocated resources until the overallocation is resolved.

### Issue 5I

1780. Issue 5I reads as follows –

*“There is the potential for a new water user to get access to water on a more reliable basis than allocations already made, resulting in inequitable outcomes.”*

1781. This Issue 5I highlights the potential for inequitable outcomes in the allocation of freshwater resources. This is particularly in circumstances where a freshwater resource is fully allocated and water becomes available through a resource consent lapsing, only being partially exercised or surrendered. To ensure that equitable allocation occurs, especially in relation to the reliability on which allocations are made, water users in the same or similar circumstances should be treated in the same manner.

1782. There are two submissions<sup>136</sup> that support Issue 5I and seek its retention as notified.

1783. Four submissions<sup>137</sup> seek deletion of the Issue as they are of a view that that the current practice for water allocation of first-in, first served remains the most appropriate means for allocating water. They are of the view that the proposed ballot system provides no surety on which development expenditure can be based. The Villa Maria submission (1218.026) also seeks removal of the Issue but states opposition to the provision as its only reason.

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<sup>136</sup> 676.067 (Dairy NZ) and 715.095 (Forest and Bird)

<sup>137</sup> 431.089 (Wine Marlborough), 457.029 (Accolade), 473.076 (Delegat Limited) and 909.085 (Longfield Farm Limited)

1784. Fonterra (1251.022) likewise seeks removal of the Issue as it does not consider that this is an matter that needs to be addressed in the MEP as the issue does not offend the purpose of the Act and hence does not need addressing to promote the Act's purpose. Fonterra accepts the first-in, first served system does not necessarily guarantee optimal or equitable allocation, however it does not accept that a balloting system would improve on that outcome. So, in the absence of a demonstrably superior approach, Fonterra contends that first-in, first served should prevail.

1785. All of the submissions either do not deny there is an issue with equitability, or acknowledge the issue exists, however for the most part they do not seek to address the issue and essentially simply state a preference for the existing first-in, first served approach. For the reasons given below, the approach in this suite of provisions gives regard to Sections 7(b) and (g) of the RMA and assists the Council in implementing Objective B3 of the NPSFM. While one of the submitters acknowledges the issue but does not support the ballot approach, it offers no alternative that would address the issue of inequity. Several other submitters are of a view that the proposed ballot system provides no surety on which development expenditure can be based. It is not clear on what basis this claim is made as, until a resource consent is granted (which is the case with either approach), there is no surety from which a development could proceed. Further, the ballot system provides a transparent and public approach that incorporates time for potential balloters to consider their options and decide on whether to participate.

### **Recommendation**

1786. It is recommended that Issue 5I, and its associated explanation, are retained as notified.

### **Objective 5.9**

1787. Objective 5.9 reads as follows –

*“Ensure that water users in the same or similar circumstances are treated in the same manner when it comes to securing access to water.”*

1788. This Objective is focussed on achieving the purpose of the RMA. In particular Sections 7(b) “the efficient use and development of natural and physical resources” and 7(g) “any finite characteristics of natural and physical resources” are matters that the Council must have regard to in promoting the sustainable management of water resources in Marlborough. Objective 5.9 also assists the Council in carrying out its statutory functions under Section 30 of the RMA in relation to establishing rules for the allocation of water. This Objective is also consistent with the provisions of the NPSFM, of which Objective B3 is of particular relevance as it requires the Council to improve and maximise the efficient allocation of water.

1789. There are five submissions<sup>138</sup> that support Objective 5.9 and seek its retention as notified.

1790. Six submissions<sup>139</sup> are a repetition of the submissions on Issue 5I and seek the deletion of Objective 5.9 for the same reasons.

1791. EDS (698.036) does not oppose the Objective but seeks that policies are included that apply an efficiency test to all existing uses on application for renewal of water permits in order to prevent water banking and frees up allocation for new users. The matter raised is already addressed through provisions in the notified Plan (particularly Policy 5.7.3).

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<sup>138</sup> 688.025 (J and J Hellstrom), 715.096 (Forest and Bird), 908.010 (Lion), 1039.071 (Pernod Ricard) and 676.068 (Dairy NZ)

<sup>139</sup> 1218.084 (Villa Maria), 1251.023 (Fonterra), 431.090 (Wine Marlborough), 457.070 (Accolade), 473.066 (Delegat Limited) and 909.086 (Longfield Farm Limited)

## **Recommendation**

1792. It is recommended that Objective 5.9, and its associated explanation, are retained as notified.

### **Policy 5.9.1**

1793. Policy 5.9.1 reads as follows –

*“Once an allocation limit is reached and that part of the water resource is fully allocated, any water that subsequently becomes free to allocate to other users will only be made available to those users through a system of ballot.”*

1794. There are five submissions<sup>140</sup> that support Policy 5.9.1 and seek its retention as notified.

1795. Six submissions<sup>141</sup> are a repetition of the submissions on Issue 5I and seek the deletion of Policy 5.9.1 for the same reasons.

1796. The Federated Farmers submission (425.076) seeks an amendment of the Policy to provide for industry oversight of ballot system. Federated Farmers supports efforts of Council to provide more equitable and transparent access to any available water, particularly in areas where water is in demand in a water short catchment. On this basis can see merit in a ballot provided it is well managed and industry provides oversight.

1797. It is not clear what the submitter means in practice by “*industry oversight*”, however in principle I have no particular concerns about industry being involved in the ballot process in some manner. I suggest that perhaps an amendment of Method 5.M.3 may be more appropriate than making changes to this Policy, particularly as water user groups are already referenced in the Method. I would be interested in further information from the submitter at the hearing as to the specifics of the relief sought, and its view on amending the Method as an alternative.

1798. The Clintondale submission (484.032) seeks to change the provision from a ballot to a tender approach. The submitter supports provisions to ensure that water users in the same or similar circumstances are treated in the same manner when it comes to securing access to water, however does not support the use of a balloting system to allocate additional water that becomes free. Clintondale do not believe that balloting would ensure the most efficient and highest rate of return value use of any additional water. As a ballot is determined by chance it encourages application merely on the chance of being allocated, without any justification of the need for the water. The ability to transfer water allocation provided by the MEP encourages participation in the ballot simply with the prospect of financial gain from transferring a successful ballot allocation, negating any justification that the additional water sought was needed in the first place.

1799. The submitter is of a view that a tender process would be a more efficient and transparent process for the allocation of additional water. The applicant could then provide a property specific business case substantiating the rationale for being granted additional water. Where there were multiple applications for the same water then the allocation would be determined on the greater substantiation for justified water use. In some cases, this may mean the available water is allocated proportionally to a number of applicants ensuring optimum use of the available resource, whereas a ballot would allocate only to the successful applicant regardless of the actual need for the water.

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<sup>140</sup> 548.072 (AWUG), 688.026 (J and J Hellstrom), 715.097 (Forest and Bird), 778.081 (Irrigation NZ) and 676.069 (Dairy NZ)

<sup>141</sup> 1218.027 (Villa Maria), 1251.024 (Fonterra), 431.091 (Wine Marlborough), 457.030 (Accolade), 473.059 (Delegat Limited) and 909.087 (Longfield Farm Limited)

1800. Clintondale present a valid argument, which was considered in the development of the provisions. One of the major reasons this approach was not supported was that in essence it was “*picking winners*”, something that the MEP has deliberately not promoted. While it is acknowledged that in the water allocation space, efficiency of water use is discussed in conjunction with water being used for the highest value end use, the MEP has taken the approach that opportunities are equally available to all and the market will essentially determine how that water is used. In an environment of limited resource availability, it is fair to consider that the most efficient use of the water available, is to allocate it to the highest value use. However, there is also an argument for enabling the community to provide for their wellbeing in the way in which they wish, provided water use is efficient relative to the intended use.
1801. With regards to some of the concerns raised with reference to balloters not being required to have a justified need for the water, the holder of a ballot must go through the same water permit consenting process as any other existing or new water user in order to make use of the allocation they obtained through the ballot system, and if they do not secure a water permit the ballot allocation is lost. In addition, a ballot cannot be transferred as it in-of-itself is not a water permit, and further even if a permit was obtained, a transfer under the proposed enhanced transfer process would only be possible if the permit had been given effect to (i.e. this would prevent the ballot being used to “bank” water for the sole purpose of transferring it for financial gain).
1802. The Pernod Ricard submission (1039.072) seeks the removal of this Policy and the consideration of alternative mechanisms of allocation consistent with section 30(1)(fa) and 30(4) RMA, such as a tender process. The submitter opposes the use of ballots as investment decisions cannot be based on this mechanism. A ballot process (i.e. relying on chance) would also not ensure that water was allocated to its highest value use. Further, it may be appropriate for water to first be allocated if required to irrigate existing crops before it is allocated to new uses.
1803. Much of the discussion above relative to the Clintondale submission applies here also however, in addition, in considering section 30(1)(fa) and 30(4) RMA as referenced in the submission, I fail to see how the tender approach would be more consistent with these sections. With regards to allocating first to irrigate existing crops, it is not clear the circumstances in which this would be referring as existing irrigated crops would already have water permits.
1804. The Fulton Hogan submission (717.036) seeks the removal of this Policy as it is of the view that the Plan contains no details of how this will operate and it also conflicts with the first in first served approach embedded in the RMA.
1805. I disagree with the submitter on both counts, however acknowledge that the details of the ballot mechanism are pitched at a relatively high level. I do not view this as a matter that needs to be addressed as the suite of provisions provide sufficient guidance for the implementation of the approach through Method 5.M.3.
1806. The Ngāti Kuia submission (501.019) does not appear to seek any specific relief relative to this Policy but makes statements generally related to equitable allocation amongst other matters. Ngāti Kuia are of a view that the Policy appears to contradict the anticipated outcomes of the other Chapter 5 policies and is therefore ineffective, however the contradictions are not clear from the submission. As no specific relief has been sought, subject to further information being presented at the hearing, no assessment or recommendation is possible at this time.

## **Recommendation**

1807. It is recommended that Policy 5.9.1, and its associated explanation, are retained as notified.

### **Policy 5.9.2**

1808. Policy 5.9.2 reads as follows –

*“On securing the ballot, the successful ballotter must apply for the necessary water permits to authorise the taking and (if relevant) use of water. Until the successful ballotter(s) secures the necessary water permits, the water resource is considered fully allocated.”*

1809. There are six submissions<sup>142</sup> that support Policy 5.9.2 and seek its retention as notified.

1810. Six submissions<sup>143</sup> are a repetition of the submissions on Issue 5I and seek the deletion of Policy 5.9.2 for the same reasons.

1811. Two submissions, Clintondale (484.033) and Pernod Ricard (1039.073), are similar to their submissions on Policy 5.9.1 and seek the amendment/deletion of Policy 5.9.2 for the same reasons, which centre around a preference for a tender approach, rather than a ballot approach.

## **Recommendation**

1812. It is recommended that Policy 5.9.2, and its associated explanation, are retained as notified.

### **Policy 5.9.3**

1813. Policy 5.9.3 reads as follows –

*“If required, any ballot will be conducted on the following basis:*

*(a) at least annually for the calendar year;*

*(b) if the water permit holder already holds a water permit to take and use water for the same purpose, then they must surrender the original water permit before giving effect to the new water permit; and*

*(c) if the subsequent water permit application to authorise the taking of water is not made within 12 months of the ballot result or the water permit application is refused, then that water will be re-balloted in the subsequent year.”*

1814. There are five submissions<sup>144</sup> that support Policy 5.9.3 and seek its retention as notified.

1815. Six submissions<sup>145</sup> are a repetition of the submissions on Issue 5I and seek the deletion of Policy 5.9.3 for the same reasons.

1816. The Clintondale submission (484.034) is similar to its submission on Policy 5.9.1 and seeks the amendment of Policy 5.9.3 for the same reasons, which centre around a preference for a tender approach, rather than a ballot approach.

1817. The Pernod Ricard submission (1039.074) seeks the removal of this Policy as it queries the logic (or wording) of (b) of this Policy, as in its view it is not clear if an aspiring water user would have to surrender all of their existing allocation, which would not make any sense if

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<sup>142</sup> 425.077 (Federated Farmers), 548.073 (AWUG), 688.027 (J and J Hellstrom), 715.098 (Forest and Bird), 778.082 (Irrigation NZ) and 676.070 (Dairy NZ)

<sup>143</sup> 1218.028 (Villa Maria), 1251.025 (Fonterra), 431.092 (Wine Marlborough), 457.031 (Accolade), 473.058 (Delegat Limited) and 909.088 (Longfield Farm Limited)

<sup>144</sup> 425.078 (Federated Farmers), 548.074 (AWUG), 688.028 (J and J Hellstrom), 715.099 (Forest and Bird) and 676.071 (Dairy NZ)

<sup>145</sup> 1218.029 (Villa Maria), 1251.026 (Fonterra), 431.093 (Wine Marlborough), 457.032 (Accolade), 473.057 (Delegat Limited) and 909.089 (Longfield Farm Limited)

their existing allocation was more than the amount that stood to be allocated via the ballot (and it may be that they had an operational need for the additional water in any event). Equally, it is not clear if they should have to apply for all of the water including their existing water if they are successful in winning the ballot.

1818. The Irrigation NZ submission (778.083) seeks amendment of the Policy to add two further requirements, that an independent scrutineer be appointed to oversee the ballot process and that the ballot shall be determined by lot. The submitter is of the view that the Policy needs to explicitly state that the ballot will take the form of 'drawing of lots' and there will be an independent scrutineer to oversee the process. This will ensure the process is fair, equitable and robust, from both a ballotter and wider public viewpoint.

1819. Similar to an earlier submission from Federated Farmers, in principle I have no particular concerns about an independent scrutineer overseeing the process, however I suggest that perhaps an amendment of Method 5.M.3 may be more appropriate than making changes to this Policy. I would be interested in further information from the submitter at the hearing as to the relief sought regarding the "drawing of lots", as there is insufficient information in the submission for me to be comfortable simply adding the term in without a better understanding of the concern with the provision as notified, that this change is seeking to address.

1820. To clarify for the submitter, a water user cannot hold two water permits for the same purpose, so if they hold a permit to say irrigate 10 hectares of vineyard with Class B water and are then successful in getting an allocation through a ballot and subsequently obtain a resource consent to say irrigate 10 hectares of vineyard with Class A water, they have to relinquish the original Class B water before they can exercise the new consent. Part (b) of the Policy means what it says, however the Panel may wish to seek advice on expanding the explanation if they consider there is unacceptable ambiguity in the Policy.

### **Recommendation**

1821. It is recommended that Policy 5.9.3, and its associated explanation, are retained as notified.

### **Method 5.M.3**

1822. Method 5.M.3 is a method of implementation associated with Policies 5.9.1 to 5.9.3 (inclusive), the Method reads as follows –

*Ballot - If water in a fully allocated FMU becomes available for allocation again, the Council will hold a ballot to determine who can make an application to take and use the water. If a water user group exists for the FMU, then the Council will seek to work with it to run the ballot".*

1823. There is one submission<sup>146</sup> that supports Method 5.M.3 and seeks its retention as notified.

1824. Five submissions<sup>147</sup> are a repetition of the submissions on Issue 5I and seek the deletion of Method 5.M.3 for the same reasons.

1825. The AWUG submission (548.077) seeks the amendment of the Method to clarify that the Council oversees and runs the ballot to ensure transparency and neutrality. The submitter appears to have interpreted the Method as saying that the responsibility for holding the ballot will be given to a water user group, if one exists. This is not the case and, in my view, the Method does not say that, therefore no changes are required to address the submitters concerns.

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<sup>146</sup> 778.084 (Irrigation NZ)

<sup>147</sup> 1218.030 (Villa Maria), 431.094 (Wine Marlborough), 457.033 (Accolade), 473.056 (Delegat Limited) and 909.090 (Longfield Farm Limited)

## **Recommendation**

1826. It is recommended that Method 5.M.3 is retained as notified.

## **Matter 10: Definitions.**

### Definition - River

1827. The definition of “River” reads as follows –

*“has the same meaning as in Section 2 of the Act.”*

1828. The definition of “River” in Section 2 of the Act reads as follows –

*“means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal).”*

1829. There is one submission<sup>148</sup> that supports the definition of “River” and seeks its retention as notified.

1830. The NZTA submission (1002.251 in part) seeks amendment of the definition for “River” as follows –

*“River has the same meaning as in Section 2 of the Act. **For the avoidance of doubt, river includes continuously, intermittently, and ephemerally flowing watercourses, but does not include artificial watercourses.**”*

The submitter states that different rules apply depending on whether a waterbody is continuously, intermittently, or ephemerally flowing, however the definitions are not mutually exclusive. The current definition for river would exclude roadside drains that have been constructed (i.e. are artificial), but would include drains that are natural but modified.

1831. I do not particularly understand why the submitter is seeking the addition to this definition, however regardless, I do not support the amendment. It is considered appropriate practice that where in the MEP definitions from other legislation are relied upon, they are only referenced, not repeated or clarified in any manner.

1832. The G Leov submission (320.003) seeks amendment of the definition for “River” as follows –

*“River has the same meaning as in Section 2 of the Act, **except for the purposes of 2.9.9 (including provisions 2.9.9.1, 2.9.9.2 and 2.9.9.3) and for the purposes of 3.3.21 (including 3.3.21.1, 3.3.21.2 and 3.3.21.3) where river means a river whose bed has an average width of 3 metres or more.**”*

The submitter proposes that the definition of River be altered to be the same as the definitions for width and purpose in Sections 229 and 230(4) of the RMA and Sections 24(1)(c) and 24(C)(ii) of the Conservation Act.

1833. This submission seeks changes to the definition of River relative to the stock crossing provisions, which were traversed in the water quality hearing. On the basis that exceptions of this nature were not recommended in relation to those provisions, I not recommended acceptance of the submission in Appendix 1.

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<sup>148</sup> 454.063 (K Loe)



1834. The Federated Farmers submission (425.421) seeks amendment of the definition for “River” to instead mean a continually or intermittently flowing body of fresh water that is 1 metre or wider, 30cms or deeper, and permanently flowing. This includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal). The submitter is of a view that the use of the definition of river from the Act means the definition of river is broad and encompassing, and vulnerable to subjective interpretations. The submitter’s concerns relate to the definition relative to the movement of livestock across any continually or intermittently flowing body of freshwater. The Beef and Lamb submission (459.066) is very similar but seeks 15cm not 30cm.
1835. As already mentioned, it is considered appropriate practice that where in the MEP definitions from other legislation are relied upon, they are only referenced, not repeated or clarified in any manner. It would be preferable if there is an issue with a stock crossing Rule, that the wording of the Rule itself was reconsidered to determine if, with the existing River definition, the intention of the Rule was or was not upheld. This is particularly appropriate given the wide use of the word River throughout the Plan, and the likelihood that the amendment sought to resolve this specific issue will not suit all circumstances.

### **Recommendation**

1836. It is recommended that the definition of “River” is retained as notified.

### Definition – Intermittently flowing

1837. The definition of “*Intermittently flowing*” reads as follows –

*“means a wetland, lake, river, or reach of river that exists or flows for weeks, or months each year.”*

1838. The NZTA submission (1002.251 in part) seeks amendment of the definition for “*Intermittently flowing*” as follows –

*“means a wetland, lake, river, or reach of river that exists or flows for weeks, or months each year **and excludes ephemeral waterbodies.**”*

The submitter states that different rules apply depending on whether a waterbody is continuously, intermittently, or ephemerally flowing, however the definitions are not mutually exclusive.

1839. The relief sought is not necessary as if a river is ephemeral, it is not intermittently flowing, and vice versa. I.e. if it exists or flows for weeks or months each year it is intermittent, if it only exists or flows after a heavy rainfall event it is ephemeral.

1840. The W Lissaman submission (255.025) seeks amendment of the definition for “*Intermittently flowing*” as follows –

*“means a wetland, lake, river, or reach of river that exists or flows for weeks, or months each year **to the extent that the waterbody bed is prevented from grassing over each year.**”*

The submitter states that many of South Marlborough’s waterbodies are considered to be ephemeral. Due to the significant variation in rainfall between years, some ephemeral streams may only run for a short period in a dry year or run for several weeks in a wet season after prolonged rainfall.

1841. I am not clear on the relief sought for this submission as it almost reads as though the submitter has not picked up that there is a definition for “*ephemeral*”. Subject to further clarification, I do not support the relief sought.

1842. The J Stevens submission (256.002) seeks clarification of the definition as in his view the current wording is open to an individual's interpretation. An example would be that Hog Swamp Creek may not be considered "*intermittently flowing*" as it has not flowed for the last two years. The submitter's assumption is that it is not an intermittently flowing creek and would not be subject to the MEP. The submitter is of the view that the Council needs to be clear and concise on each and every river or body of water and to have a "catchment-specific plan" for every river or body of water so as to remove any misinterpretation of rules and definitions.
1843. In this case, the submitter also does not appear to have picked up that there is a definition for "*ephemeral*" in the MEP (and rules that use the term). The remainder of the definition relates back to the water quality provisions. I do not support the relief sought.
1844. The Federated Farmers submission (425.406) seeks removal of the definition for "*intermittently flowing*" from the MEP, as it is of the view that the definition is ambiguous and inappropriate. According to the proposed definitions, is not clear the difference between an ephemeral or intermittently flowing river, and many farmers will struggle to determine whether they are looking at an ephemeral or intermittently flowing river, and therefore which rules apply. Federated Farmers submits that the definition of intermittently flowing and all associated provisions are deleted from the Plan.
1845. It is disappointing the submitter has taken this approach as one of the reasons for the separate descriptions is to provide greater enablement in the rules. For example, an activity may not be able to occur in a river, however if it is an intermittently flowing river and that river is not flowing, then the activity can occur. If the submitter is struggling with the difference between ephemeral and intermittently flowing on the basis of the definitions, then it would seem that it would be more helpful to farmers if it suggested amendments to provide clarification. I do not support the relief sought.

### **Recommendation**

1846. It is recommended that the definition of "*Intermittently flowing*" is retained as notified.

### **Definition – Ephemeral**

1847. The definition of "*Ephemeral*" reads as follows –

*"means a wetland, lake, river, or reach of river that only exists or flows for a short period following heavy or persistent precipitation or snowmelt."*

1848. There is one submission<sup>149</sup> that supports the definition of "*Ephemeral*" and seeks its retention as notified.

1849. The NZTA submission (1002.251 in part) seeks amendment of the definition for "*Ephemeral*" as follows –

*"means a wetland, lake, river, or reach of river that only exists or flows for a short period following heavy or persistent precipitation or snowmelt **and excludes intermittent waterbodies.**"*

The submitter states that different rules apply depending on whether a waterbody is continuously, intermittently, or ephemerally flowing, however the definitions are not mutually exclusive.

1850. The relief sought is not necessary as if a river is ephemeral, it is not intermittently flowing, and vice versa. I.e. if it exists or flows for weeks or months each year it is intermittent, if it only exists or flows after a heavy rainfall event it is ephemeral.

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<sup>149</sup> 454.058 (K Loe)

1851. The Federated Farmers submission (425.396) seeks removal of the definition for “*ephemeral*” from the MEP, as it is of the view that the definition is very similar to intermittently flowing and it is not clear the difference between an ephemeral or intermittently flowing river, and many farmers will struggle to determine whether they are looking at an ephemeral or intermittently flowing river, and therefore which rules apply. It also appears that ephemeral river will capture events like overland storm water flow, or ponding in a paddock over winter after heavy rain. Federated Farmers submits that the definition of ephemeral and all associated provisions are deleted from the Plan.

1852. It is disappointing the submitter has taken this approach as one of the reasons for the separate descriptions is to provide greater enablement in the rules. For example, an activity may not be able to occur in a river, however if it is an ephemeral river, then the activity can occur as an exception. If the submitter is struggling with the difference between ephemeral and intermittently flowing on the basis of the definitions, then it would seem that it would be more helpful to farmers if it suggested amendments to provide clarification. I do not support the relief sought.

### **Recommendation**

1853. It is recommended that the definition of “*Ephemeral*” is retained as notified.

### **Definition – Surface water**

1854. The definition of “*Surface water*” reads as follows –

*“means water contained in lakes, wetlands, drainage channel, rivers, streams, either permanently or intermittently. As opposed to groundwater.”*

1855. The Federated Farmers submission (425.426) seeks amendment of the definition for “*surface water*” as follows –

*“means water contained **permanently** in lakes, wetlands, ~~drainage channel,~~ rivers, streams, ~~either permanently or intermittently.~~ **For the purpose of this plan, surface water does not include water in drains, drainage channels, water races, dams, ephemeral flow paths and bodies of water designed, installed and maintained for any of the following purposes: water storage ponds including but not limited for fire fighting, irrigation or stock watering, and water treatment ponds including but not limited to wastewater, stormwater, nutrient attenuation, sediment control or animal effluent.** As opposed to groundwater.”*

1856. Federated Farmers provides no reason, except to say these things should be excluded. The phrase “*surface water*” is used extensively throughout the Plan and I would be concerned that there may be unintended consequences from such an extensive list of exclusions as sought. For example, the submitter seeks for surface water to not include water contained in a dam designed, installed and maintained for irrigation. This would mean that the water in an irrigation dam within the bed of a river that dams the natural flow of the river, and maintains a residual flow downstream for ecological purposes, would not be surface water. I also note, in particular, the removal of drainage channels, and I note that there are many of these features that are also streams and therefore a blanket exclusion would not be appropriate. It would be more useful if the submitter provided examples of where the definition, as notified, causes an issue in the provisions. I do not support the relief sought.

### **Recommendation**

1857. It is recommended that the definition of “*Surface water*” is retained as notified.

### Definition – Freshwater Management Unit (FMU)

1858. The definition of “*Freshwater Management Unit*” reads as follows –

“as mapped on the *Freshwater Management Unit Maps 1 to 5*.”

1859. The Fertiliser Association submission (1192.095) seeks amendment of the definition for “*Freshwater Management Unit*” to add, “A *Freshwater Management Unit* can be a water body, multiple water bodies or any part of a water body that is an appropriate spatial scale for setting freshwater objectives and limits and for freshwater accounting and management purposes.”

FANZ seeks that there is one definition of FMU set by the NPSFM, and the term should be more clearly defined.

1860. In general, I do not see how this addition assists Plan users, and is therefore necessary. I note that the submitter seeks to use the NPSFM definition but does not copy it exactly, even small changes or omissions in a definition can effect its meaning. If the Panel is of a mind to add the NPSFM definition to the MEP, in my view, the same approach should be taken as in other similar definitions, i.e. an FMU has the same meaning as in the NPSFM. In all cases, it is important that the link to the FMU maps is retained.

### **Recommendation**

1861. It is recommended that the definition of “*Freshwater Management Unit*” is retained as notified.

### Definition - Damming

1862. The NZTA submission (1002.231) seeks to add a new definition to the MEP for “*Damming*”, to read as – “*means impounding surface water or groundwater water with any structure. This excludes water held in tanks, and for the avoidance of doubt excludes coffer dams.*” The submitter notes that the term ‘damming’ is used within the definition for ‘dam’, but is not defined, therefore it requests a definition for damming be included. The suggested definition makes it clear that a dam and damming only applies where water is impounded and that it does not relate to a coffer dam.

1863. As indicated earlier in relation to another submission, I am hesitant to add or amend definitions where terms have been used liberally in the MEP as there may be unintended consequences. For example, in this instance the submitter seeks for the definition to make it clear that damming does not include coffer dams. To the best of my knowledge “coffer dams” are not referred to in the MEP, so in the context of the MEP, what is the submitter excluding? (NZTA has not provided a definition of coffer dam in this submission). Damming is a word that can have a different meaning depending on context, and I am concerned that if the definition is added as sought, to reflect what the submitter considers “damming” means in the context of the definition for “dam”, it will limit the meaning of the word in other contexts. Potentially the word damming could even be used beyond a s14 context in describing the storage of effluent, i.e. not water as stipulated in the proposed definition. At this time, I do not recommend this definition is added, it may assist if the submitter provides examples of where lack of a definition for damming causes an issue in the provisions.

### **Recommendation**

1864. It is recommended that a definition for “*Damming*” is not added to the MEP at this time.

### Definition – Non-consumptive uses

1865. The definition of “*Non-consumptive uses*” reads as follows –

*“means the use of water but not the actual consumption of that water. For example, fishing, swimming.”*

1866. The Sanford Limited submission (1140.073), the Aquaculture NZ submission (401.240) and the Marine Farming Association submission (426.236) seek to amend the definition of “*Non-consumptive uses*” to add the example of using water to cool of vessels, as they are of the view that the definition is uncertain.

1867. I do not share the submitter’s views that the definition is uncertain, and I do not consider it to be particularly helpful to add a relatively obscure coastal water example. I am not of a mind to recommend this addition is made to the definition, however the focus of this s42a report is on freshwater, and it may be that the planning officer assessing activities involving coastal water may have reached a different conclusion.

### **Recommendation**

1868. It is recommended that the definition of “*Non-consumptive uses*” is retained as notified.

### **Definition – Consumptive uses**

1869. The definition of “*Consumptive uses*” reads as follows –

*“means a use that involves the taking and using of water, for example, crop irrigation or industrial processes.”*

1870. The Federated Farmers submission (425.391) seeks the removal of the definition “*Consumptive uses*” from the MEP as it asserts that the definition is not used at all within Volume Two and therefore a definition is unnecessary.

1871. The submitter has made the assumption that the definitions in Chapter 25 only apply to Volume 2, however, as explained in the Chapter 1 of Volume 2 this is not the case and it defines terms used through the MEP. There are several references to “consumptive use” in Chapter 5 of Volume 1, therefore retention of the definition is appropriate.

### **Recommendation**

1872. It is recommended that the definition of “*Consumptive uses*” is retained as notified.

### **Definition – Municipal water supply**

1873. The definition of “*Municipal water supply*” reads as follows –

*“means any water supply owned, managed or administered by the Marlborough District Council.”*

1874. The MDC submission (91.149) seeks the amendment of the definition of “*Municipal water supply*” to reflect that the definition of municipal water supply is not intended to capture municipal water supplies that are exclusively for the purpose of providing an irrigation water supply. No further submissions were received in opposition to this specific amendment. I support the relief sought and have provided the specific wording changes in the Recommended section below.

### **Recommendation**

1875. That the definition of “*Municipal water supply*” be amended to read as follows –

*“means any water supply, **other than a supply exclusively providing an irrigation water supply**, owned, managed or administered by the Marlborough District Council.”*

### Definition – Water supply

1876. The NMDHB submission (280.003) seeks the addition of new definitions to the MEP for the different terms used for water supplies which are consistent with other existing legislation. The submitter is of the view that the MEP uses numerous terms in relation to water supplies including: municipal water supply, community water supply, drinking water supply, community drinking water supply and registered drinking water supply. Definitions need to be provided which are consistent with other existing legislation in providing clarity and certainty of the intent of provisions.

1877. Sometimes words just mean what they say, and the context in which they are used can give different words different meanings. Other terms are defined within provisions, for example, standards referencing a registered drinking water supply, as mentioned in the submission, state that they are as registered under section 69J of the Health Act 1956. Some terms are defined in Chapter 25, such as municipal water supply. If the submitter wishes to identify specific references in Plan provisions where a definition, or lack of a definition is problematic then I would have no problem assessing the need for a change to the definitions. It would also be useful if the submitter seeks the Plan to use terms from other legislation, that it identifies that legislation and the specific definitions it would like to be used. At this time, I do not recommend any changes to Chapter 25 as a consequence of this submission.

### **Recommendation**

1878. It is recommended that additional definitions relating to water supplies are not added to the MEP at this time.

### Definition – Safe Yield

1879. The Fulton Hogan submission (717.077) seeks to add a new definition to the MEP for “*Safe Yield*”, no details of what the definition should be have been provided. The submitter is of a view that it is used in the Plan but is not defined.

1880. The MEP is full of words and phrases that are not defined. The submitter has provided no reason why this particular phrase should be identified, or where in the Plan it is used in a manner that needs clarification by the addition of a definition. Based on the content of the submission, I am not compelled to add a definition for safe yield to the MEP.

### **Recommendation**

1881. It is recommended that additional definition for “*Safe yield*” is not added to the MEP at this time.

### Definition – Enhanced Transfer

1882. The Fulton Hogan submission (717.078) seeks to add a new definition to the MEP for “*Enhanced Transfer*”, no details of what the definition should be have been provided. The submitter is of a view that it is used in the Plan but is not defined.

1883. The MEP is full of words and phrases that are not defined. The submitter has provided no reason why this particular phrase should be identified, or where in the Plan it is used in a manner that needs clarification by the addition of a definition. In this particular instance, this is a phrase that is very much defined by its place in the provisions and explanations to the provisions, I doubt it would be of much assistance to try and put it into a few succinct words. Based on the content of the submission, I am not compelled to add a definition for safe yield to the MEP.

## **Recommendation**

1884. It is recommended that additional definition for “*Enhanced transfer*” is not added to the MEP at this time.

## **Matter 11: Submissions not covered elsewhere.**

### Submissions on Chapter 5 – Introduction

1885. There is one submission<sup>150</sup> that supports the Introduction and seeks its retention as notified. On the basis that I have recommended an amendment to the Introduction as a consequence of another submission, the recommendation for this submission in Appendix 1 is recorded as accepted in part.
1886. The Nelson Forests Limited submission (990.166) seeks amendments to the Introduction to Chapter 5 to remove the reference to viticulture, as it infers that the Council has picked this industry as being more important than others. The submitter states that the MEP states that one of the two main issues for the allocation of public resources, is the rights to take and use water. This is clearly an issue for abstractive water users such as viticulture, with the inference in the introduction being that because viticulture is a significant contributor to Marlborough’s economy, this will be considered when determining water allocation.
1887. I suspect that the submitter has applied more meaning to the reference to viticulture than it actually has in the Introduction, where it is clearly stated it is used as an example. I do not support the relief sought by the submitter.
1888. The MFIA submission (962.031) seeks an addition to the example of viticulture to equally reference hill country being best suited to commercial forestry. The submitter is of the view the Council is picking winners, and has an unbalanced view. The allocation of public resources is an issue with regards to the rights to take and use fresh water.
1889. I find this submission to be full of contradiction. The submitter has gone to great lengths to make the point in other submissions that forestry does not abstract water, and it reiterated in this submission that the allocation of public resources is about the take and use of freshwater, but then it seeks the inclusion of commercial forestry in the Introduction equally with the example of viticulture being reliant on access to freshwater. I do not support the relief sought as, in my view, the additional reference sought would not make sense in this context.
1890. The NMDHB submission (280.011) seeks amendment of the second paragraph of the Introduction to recognise that the allocation of public resources is integral to the health and safety of people and communities, for example, the allocation of water for human consumption.
1891. I do not have a particularly strong view on this, but I would be comfortable with incorporating this in the explanation if the Panel was of a mind to do so. The submitter did not provide the exact wording sought, however I have recommended the addition of a sentence in the Recommended section below that reflects the submission.
1892. The Ngāi Tahu submission (1189.032) seeks amendment of the first paragraph of the Introduction to recognise that water is a taonga and is essential to all as a life-source, and essential for mahinga kai, and holds particular significance to Tangata Whenua Iwi. And, the submitter also seeks amendment of the third paragraph of the Introduction reference a healthy economy, which relies on the environment, being premised on a healthy

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<sup>150</sup> 688.010 (J and J Hellstrom)

environment. The submitter is of the view that these advises that these amendments should be included in the Introduction, and they are sought to provide context.

1893. I find the additions sought to be consistent with the provisions within Chapter 5, and I am comfortable with greater emphasis on the cultural values coming through in the Introduction. The specific wording changes sought, and recommended are in the Recommended section below.
1894. The Fish and Game submission (509.026) seeks amendment of the Introduction to better reflect Objective B1 of the NPSFM, and the protection of the habitat of trout and salmon and safeguarding the life-supporting capacity of water and ecosystems as required in section 5 of the RMA. The submitter is of the view that the Introduction states that the “*significant reduction or change in approach to resource use could have significant implications for Marlborough’s economic, cultural and social wellbeing*”. The allocation, taking and use of freshwater is a matter of particular interest to the submitter. The EDS submission (698.010) is similar to the Fish and Game submission, and the assessment and recommendation apply to both.
1895. The submitters have not supplied any specific text with regards to the amendments sought, however I support the intention of the submissions and am of a view that the Introduction could benefit from a link to safeguarding the life-supporting capacity of waterbodies. I have suggested wording as a new second paragraph in the Introduction, see the Recommended section below, and have drawn in particular from Objective B1 of the NPSFM and Objective 5.2 of the MEP in drafting the recommended addition. I have recorded the recommendations in Appendix 1 as accepted in part as I may not have fully satisfied the relief sought.
1896. The Friends submission (716.041) seeks the removal of a sentence from the Introduction about marine farming, that sentence is not in the notified MEP so I assume the submitters used a draft version when writing their submission. I have disregarded this part of the submission. The submission also seeks the amendment of the third paragraph to reference sustainable management and climate change. The submitter is of the view that this paragraph needs to be reworded as it does not reflect the risk of significant changes in the environment, property and access to resources as a result of climate change. In order to adapt, a community needs to prepare and face the implications of climate change. As a result, these effects can have an impact on property right and resource access compared to how we know that today.
1897. The amendments I have recommended as a result of the Fish and Game, and EDS submissions should address the submitters concerns somewhat in relation to sustainable management. In my view, the emphasis on climate change sought to be included in the Introduction does not reflect the lack of emphasis on climate change in these provisions in Chapter 5, therefore I do not support those changes. I have recorded the submission as accepted in part in Appendix 1 on the basis that other amendments may partly satisfy the relief sought.

### **Recommendation**

1898. It is recommended that the Introduction to Chapter 5 is amended as follows –

*“Much of the Council’s resource management work involves managing resources that are in the public domain. Marlborough has a considerable coastline, large areas of land in Crown ownership and extensive freshwater resources. **Water is a taonga and is essential to all as a life-source. Water is also essential for mahinga kai, and holds particular significance to Tangata Whenua Iwi.** The Council frequently allocates or authorises the use of these natural resources for private benefit, especially resources in the coastal marine area, rivers, riverbeds and aquifers.*

***Sustainable management of the taking, using, damming or diverting of water means safeguarding the life-supporting capacity of freshwater resources, and ensuring there***



**are sufficient flows and/or levels to retain the natural and human use values supported by waterbodies.**

*Allocating rights to use public resources has become a fundamental part of the overall fabric of Marlborough's social and economic wellbeing. For example, our viticulture industry, which contributes significantly to Marlborough's economy, relies on access to freshwater resources from rivers and aquifers. Other examples include the many moorings, boatsheds and jetties throughout the Sounds, all of which contribute to the social wellbeing of residents and holidaymakers. **The allocation of freshwater is also integral to the health and safety of people and communities, for example, the allocation of water for human consumption.***

*The importance of the community and visitors being able to continue to use and develop these natural resources within the constraints of the Resource Management Act 1991 (RMA) cannot be underestimated. Any significant reduction or change in approach to resource use could have significant implications for Marlborough's economic, cultural and social wellbeing. **However, a healthy economy which relies on the environment, must be premised on a healthy environment.** The two main areas where allocation of public resources is considered to be an issue are rights to occupy space in the coastal marine area, and rights to take and use freshwater."*

#### Submissions on Chapter 5 as a whole

1899. There is one submission<sup>151</sup> that supports the support a regulatory approach to water allocation. I have recorded this submission in Appendix 1 as accepted.
1900. The Flaxbourne Settlers Association submission (712.036) on Chapter 5 seeks retention of the provisions. The submitter states general support for the objectives and policies in Chapter 5 which support giving primary to community water schemes including Policy 5.3.1. Furthermore, the Flaxbourne Settlers Association would like to see Council commit to assisting in improving the water supply in the Ward Township to accommodate the future growth of the township. On the basis that some provisions are recommended to be amended, the recommendation for this submission is recorded as accepted in part.
1901. The Chamber submission (961.001) on Chapter 5 does not seek specific relief for which and assessment or recommendation can be made. The submitter states that this chapter seems to consider the effect water allocations will have on the investment opportunities in the region. It identifies that water is an important and limited resource in the region that needs to be well managed and fairly allocated and shared. The Chambers concerns are in the complexity in allocating these resources and the potential cost and administration burden of the measurement and reporting required. Some of these matters have been raised in relation to specific submissions, therefore the assessments for those submissions may respond to some of the Chambers concerns.
1902. The Te Ātiawa submission (1186.020) on Chapter 5 seeks that cultural indicators are incorporated into the water allocation regime. Cultural indicators have been developed around the country for freshwater quality and water quantity, air quality and coastal values. These take into account the values that are important to iwi, specifically cultural and spiritual issues. The application of these indicators ensures that those matters of significance to iwi are protected. Whilst the MEP considers cultural values and discusses cultural indicators, it takes no steps to provide for or incorporate any cultural indicator to be applied with any resource. The indicators used in the MEP are purely scientific.
1903. Te Ātiawa have lodged similar submissions on other parts of the Plan, however to my knowledge, none of the submissions contain information to assist in writers in understanding

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<sup>151</sup> 688.010 (J and J Hellstrom)

what the cultural indicators would contain, specific details would welcome at the hearing for potential inclusion in the MEP. The submission is not supported at this time.

1904. The D Hulbert submission (35.001) seeks that Chapter 5 should be re-worded to include recognition of “*Prior tempore potior iure*” and that “*Fair & Just*” should take precedent over “equitable” in protecting businesses and farming families that have built our community. The wording of Policy 5.5.4 (Progressively resolve) and Objective 5.9 (Ensure that water users in the same or similar circumstances are treated in the same manner when it comes to securing access to water. Water users have a desire to ensure that others in the same or similar circumstances are treated in the same manner with regard to securing access to water through the resource consent process), suggest to the submitter that the Council considers all water users as equal, when clearly that should not be the case. “*Prior tempore potior iure*” is a legal principal that translates to “*Earlier in Time, Stronger in Law*”. Those who have occupied the land, cultivated it, made a business of it, and have their family roots tied to it, should have priority for the resources that accompany it.
1905. I do not support the relief sought by the submitter as I am of the view that the MEP appropriately addresses matters of access, equitability and the protection of existing users. There are numerous ways in which existing users are protected, from minimum flows protecting a domestic take, to considering interference effects relative to instantaneous abstraction rates, to new forestry being restricted in some catchments to protect water yield and existing permit holders. In fact, the suite of provisions developed to give effect to Objective 5.9 are there precisely to ensure a new water user does not benefit over an existing water user merely due to being in the right place at the right time.
1906. The NMDHB submission (280.010) seeks that Chapter 5 is renamed so that it explicitly relates to the allocation of freshwater resources and coastal space (or occupation). The submitter is of the view that the Chapter is dedicated to the allocation of public resources. While some activities which utilise public resources are provided for (e.g. the taking, damming and diversion of water; the occupation of space in the coastal marine area) others are not. For example, the use of fresh or coastal waters and air for the assimilation of pollutants, the extraction and use of gravel or sand. This may be confusing for the reader.
1907. The provisions in this Chapter are about allocating public resources, air, gravel and sand are not allocated in the MEP therefore they are covered elsewhere. Beyond perhaps gravel extraction by people in the industry, I am not of a view that Plan users would expect the Council to be allocating air, for example. I do not agree that the name of the Chapter is confusing, therefore do not support the relief sought. If it was of concern to the Panel the Chapter name could be changed to “*Allocation of Freshwater and Coastal Space*”, or similar.
1908. The Forest and Bird submission (715.005) seeks the renaming of the chapter: “*Freshwater Use and Allocation*”, and the amendment of the introduction to align with the content of the Chapter and how freshwater provides for the social and economic welfare of the community as well as life supporting capacity for the natural environment. Explain that marine water issues are addressed in the Coastal Environment Chapter, and move Issue 5J, Objective 5.1 and Policies and Methods to the Coastal Environment Chapter. Merge and combine with provisions within the coastal environment chapter where possible to improve clarity and reduce repetition.
1909. I have not made a recommendation on this submission as it is predominantly about the coastal space provisions in Chapter 5, therefore I am not well placed to comment. If that aspect of the Chapter was to be removed, my preference would be for the Chapter name to change to “*Allocation of Freshwater*”.
1910. The Federated Farmers submission (425.147) seeks that the objectives and policies in Chapter 5 are redrafted to appropriately recognise the importance of reliable and adequate

freshwater supplies to the Marlborough region. And, the submitter seeks that Chapters 5 (Allocation of Public Resources) & 15 (Resource Quality (Water section)) are combined and redrafted to remove inconsistencies and superfluous policies. In neither case has the submitter identified the specific changes that, in its view, are required. The submitter is of the view that the Chapters need to be combined and completely redrafted as both Chapters deal with water and the limit setting process, whether quality or quantity. Further, it states that the Chapters are inconsistent and include contradictory policies. Federated Farmers considers that chapters should be consolidated so that all of the issues, objectives, policies and methods pertaining to water are included in one chapter and, as outlined in an earlier submission point, references to the coastal environment and coastal marine area should be included in the coastal environment chapter.

1911. Generally speaking I do not share the submitter's view and am comfortable with the way in which the MEP addresses water allocation and use, and water quality. Aside from that, as the submitter has not identified the apparent inconsistencies, contradictions, and superfluous policies that are of concern to it, I am unable to fully understand the submitter's concerns and therefore assess whether it is appropriate to support any changes to address those concerns. Subject to receiving further information, I do not support the relief sought.

#### Other Submissions not covered elsewhere

1912. The M Croad submission (288.005), Red Barn Vineyards submission (297.005) and Hawkswood Vineyard Limited submission (300.005) on Chapter 5 do not seek specific relief for which assessments or recommendations can be made. The submitters seek clarification on the reconciliation periods of water takes and water use and how storage facilities affect these rules. I am not clear enough on what information is sought to comment at this time.

1913. The K Adams submission (17.001) seeks that the Council either re-write entire portions of the MEP, or add amendments to Volumes 1 and 2 to repair not only this mammoth document, but confidence in the Council as well. Due to the lack of specificity in the submission, as well as some of the matters sought to be addressed being significantly out of scope, I am unable to assess the relief sought and make a recommendation at this time.

1914. The K Adams submission (293.001) seeks to enter into the record a historic reference to the effects of damming and draining and the resulting water issues we now face in the district. The submitter is of the view that it is imperative to know how we got to this place, if we are to successfully improve our situation. The submitter requests that an amendment to the MEP be inserted to explore alternatives to slashing existing water user permits, and feasibility studies to recharge the aquifers at risk while maintaining responsible use of our water-resources, as there are alternatives to draconian water resource cuts, but without Council leadership they will never see the light of day.

1915. If the submitter is able to provide further information on an alternative allocation regime, then it can be considered, however the regime in the MEP is the product of an extensive review process.

1916. The Raeburn Property Partnership submission (1084.005) seeks that the Council undertake a thorough Section 32 analysis of all sections of the MEP plan. The submitter states that, one suspects it is the arguments laid out in Ayn Rands quotation that would have prevented or curtailed the Council from undertaking a full and thorough Section 32 analysis because to undertake a detailed and factual study they would surely have found, "*The villain in the picture was not the businessman, but the legislator, not free enterprise, but government controls*".

1917. This submission is not specific to Chapter 5 or the water quantity management provisions, and would be more appropriately assessed alongside the general submissions on the Plan. I understand that Paul Whyte did consider submissions on the s32 reports in his s42a report.

As a contributor to the s32 reports, it may not be appropriate for me to comment any further as it is likely the submitter could view me as part of the problem.

1918. The Kilravock Trust – Vineyards submission (296.002) seeks the consideration of a wider solution to water allocation by investigating community storage that will keep aquifers at levels that promote a wide range of land use. The submitter believes the MEP misses the critical issue of protecting Marlborough's GDP growth potential, by limiting future opportunities to change in land use, restricted allocation based on land use needs more clarity, discussion and a scientific approach.
1919. In my view, the matter of investigating community storage is outside of the scope MEP at this stage. If an alternative to the MEP water management regime was developed, and then specific provisions to implement that regime were drafted, then at that time changes could be made to the MEP. At this point, I have no clarity what specific provisions the submitter would envisage being added to the Plan to address its relief sought.
1920. The Ngāti Rārua submission (1188.004) seeks formal engagement with iwi and the removal of the offending clauses from the Plan. In addition, the emphasis on outstanding natural character, landscapes and features, coastal occupation charges and significant marine buffers whilst downplaying the need for water transfer regime issues, sedimentation does not promote sustainability.
1921. I do not find this submission to be specific enough for an assessment or recommendation to be made. The Panel is well aware of the Iwi Working Group process, as is the submitter, so it has to be assumed the reference to formal engagement is seeking more. I am unclear if this is around the MEP or the in the context of the Council as a whole.
1922. The Te Ātiawa submission (1186.019) states that if the Council is to apply a charge on coastal users, then a similar charge should be imposed on those that use public resources for private gain. Examples of this are takers and users of water for commercial gain, and discharges of pollutants to air. The remainder of the submission appears to centre around the submitter's opposition to coastal occupation charges, however it is unclear if it is a general opposition or a specific opposition to the charges applying to Te Ātiawa, or if they would support the charges if they were applied on other resources too.
1923. Based on the lack of clarity as to the specific relief sought, and the crossover into matters outside this hearing topic, I have not made any assessment or recommendation in relation to this submission.

#### Method 5.M.1

1924. Method 5.M.1 is a method of implementation that is not specifically associated with any particular Objective or Policy, so is considered here. The Method is "*Regional rules*" and contains references to the rules that are in the MEP to implement the Volume 1 provisions.
1925. There is one submission<sup>152</sup> that supports Method 5.M.1 and seeks its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for this submission in Appendix 1 is recorded as accepted in part.
1926. The MDC submission (91.047) seeks to amend paragraph five of the Method to remove the word "Outstanding", as outstanding waterbodies are not specifically identified in the Plan so it is not appropriate to reference in 5.M.1. Nelson Forests Limited have further submitted in opposition to this submission as they are of the view that there is no justification given for widening the prohibition to all water bodies as opposed to outstanding.

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<sup>152</sup> 548.075 (AWUG)

1927. The change sought does not do that, the waterbodies with significant values in the Prohibited Activity rules remain unchanged from this amendment. The NPSFM makes specific reference to outstanding waterbodies and it is important to note that, unlike Significant Wetlands, the Council has not been through a specific process to identify and map outstanding waterbodies. On that basis, it is considered confusing to use that term in this Method as Plan users may go looking for those mapped features. The specific changes to the Method are in the Recommended section below.

### **Recommendation**

1928. It is recommended that paragraph five of Method 5.M.1 is amended as follows –

*“Prohibit the taking, use, damming or diversion of water where those activities would adversely affect the significant values of outstanding water bodies”.*

### **Method 5.M.4**

1929. Method 5.M.4 is a method of implementation that is not specifically associated with any particular Objective or Policy, so is considered here, the Method reads as follows –

*“Information - Provide water users and the community with river flow and aquifer level information so that they can make informed decisions with respect to the rationing or cessation of their water take in order to comply with the rules in the MEP.*

*Provide water users with information on their recorded water use relative to their water permit allocation”.*

1930. There is one submission<sup>153</sup> that supports Method 5.M.4 and seeks its retention as notified.

1931. The K Saville-Smith and B James submission (370.002) seeks an amendment to the Method to include the provision of information on monitoring and policing of restrictions on water takes, as in their view they are missing from the Plan.

1932. I am not clear enough on what specific information the submitters seek to have written into the Method. The Council has monitoring programmes for various reasons relative to need, and the regular compliance processes come into play if necessary, however I would not recommend notating these somehow in a Method. The submitter may provide more detailed information at the hearing but in the meantime, I do not support the relief sought. I note there are AER's in Chapter 5 regarding monitoring the effectiveness of the Plan provisions, however I am not sure that this would be quite what the submitters are seeking.

### **Recommendation**

1933. It is recommended that Method 5.M.4 is retained as notified.

### **Method 5.M.9**

1934. Method 5.M.9 is a method of implementation that is not specifically associated with any particular Objective or Policy, so is considered here, the Method reads as follows –

*“Advocacy - Encourage water users to undertake soil moisture monitoring on irrigated properties so that irrigation occurs to maintain soil moisture levels. This will result in more responsive and efficient use of water”.*

1935. There is one submission<sup>154</sup> that supports Method 5.M.9 and seeks its retention as notified.

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<sup>153</sup> 548.078 (AWUG)

<sup>154</sup> 548.083 (AWUG)

1936. The Irrigation NZ submission (778.085) seeks the following amendments to 5.M.9 –

*“Encourage water users to undertake ~~soil moisture monitoring~~ irrigation scheduling on irrigated properties so that irrigation occurs to maintain soil moisture levels. This will result in more responsive and efficient use of water.”*

The submitter is of the view that soil moisture monitoring is a good tool but other methods of scheduling irrigation also be encouraged.

1937. This submission has been considered by John Bright and he advises that this would be acceptable if “*irrigation scheduling*” is defined in the Policy to mean irrigation management based on regular measurement or modelling of soil moisture levels. The key thing is that soil moisture monitoring needs to be quantitative. The submitter has interpreted “*soil moisture monitoring*” to mean soil moisture measurement and believes there are other methods for quantitative monitoring of soil moisture.

### **Recommendation**

1938. It is recommended that Method 5.M.9 is retained as notified.

### **New Method**

1939. The Horticulture NZ submission (769.038) seeks the addition of a new Method as follows –

*“Identification of values supported by freshwater, groundwater resources. To identify, the values that the community places on freshwater bodies. These values will be used as the basis for establishing freshwater objectives and policy responses to manage the waterbodies.”*

1940. The submitter supports 15.M.1 in Chapter 15 – Resource Quality, as it recognises that the values of waterbodies have not been identified. A similar method is required in Chapter 5 because the value identification process needs to be undertaken considering the range of values for a waterbody. The same values should apply across all activities associated with the waterbody.

1941. I am not sure how this sits in the context of these provisions. I am concerned that it implies that a process is yet to be conducted, which in the water quality space is correct as that part of the NPSFM has not been fully implemented through the MEP. I am not aware of any intended process from a water quantity perspective. At this stage, I am not comfortable to recommend this Method is added.

### **Anticipated Environmental Result 5.AER.1**

1942. 5.AER.1 reads as follows –

*“Sufficient flow in rivers and adequate groundwater level to sustain natural and human use values supported by these water bodies”.*

1943. 5.AER.1 has two methods of monitoring effectiveness, which read as follows –

*“Attainment of environmental flows and levels, as recorded at representative monitoring sites.*

*The record of compliance with environmental flows and levels, as recorded by water meter and published via E-planning”.*

1944. There is one submission<sup>155</sup> that supports 5.AER.1 and seeks its retention as notified.

1945. The Friends submission (716.053) seeks amendments of the AER as follows –

~~Sufficient~~ **Maintain and/or enhance** flow in rivers and ~~adequate~~ groundwater level ~~to sustain~~ **reflecting sustainable management of** natural and human use values supported by these water bodies.

The submitter is of the view that obligations of sustainable management go beyond 'sufficient'.

1946. An AER is anticipated that has to be measurable to monitor effectiveness, the suggested amendments would make the AER more aspirational with no suggested, or obvious, way to monitor whether the result has been obtained. If you had to measure it, what would an enhanced flow look like? At this time, I do not support the amendments sought.

### **Recommendation**

1947. It is recommended that 5.AER.1 is retained as notified.

### **Anticipated Environmental Result 5.AER.3**

1948. 5.AER.3 reads as follows –

*“Maintenance of the significant values of outstanding water bodies”.*

1949. 5.AER.3 has one method of monitoring effectiveness, which reads as follows –

*“Reassessment of waterbody values at the time of the next review of the MEP”.*

1950. There is one submission<sup>156</sup> that supports 5.AER.3 and seeks its retention as notified. On the basis that I have recommended an amendment to the Policy as a consequence of another submission, the recommendation for this submission in Appendix 1 is recorded as accepted in part.

1951. The Friends submission (716.054) seeks amendments of the AER as follows –

~~“Maintenance of the significant values of outstanding~~ **Ensuring the survival of all waterbodies and its flora and fauna, both rare and commonplace, in their natural communities and habitats are part of the preservation of representative samples of all classes of wetland ecosystems to preserve the remaining New Zealand character.”**

The submitter is of the view that many waterbodies have been modified or no longer exist (e.g. wetlands). The condition of waterbodies that are not outstanding should also be maintained. Degraded water bodies need to be recognised and integrated as per restoration and enhancement propositions.

1952. I perhaps agree in part with the intent of the relief sought by the submitters, although not the specific changes. The same issue exists with the submission lodged on 5.AER.1, in that there needs to be a measure that can be monitored. I suggest that for 5.AER.3 to be more meaningful, and perhaps go a little way towards addressing the submitters concerns, that it be amended to be about the maintenance of the significant values of wetlands. Unlike outstanding waterbodies which are not mapped in the MEP, Significant Wetlands are, and their values are in the Council's records, therefore the method of monitoring effectiveness would be more meaningful, as the Council would be able to ascertain whether the MEP

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<sup>155</sup> 715.111 (Forest and Bird)

<sup>156</sup> 715.113 (Forest and Bird)

provisions were successful at maintaining wetland values at the time of the next review. The specific amended wording I propose is in the Recommended section below, and I have, with some hesitancy, recorded this recommendation on this submission in Appendix 1 as accepted in part as I appreciate the submitters may not really consider I have addressed their concerns.

### **Recommendation**

1953.5.AER.3 reads as follows –

*"Maintenance of the significant values of ~~outstanding waterbodies~~ **wetlands**".*

1954.5.AER.3 has one method of monitoring effectiveness, which reads as follows –

*"Reassessment of ~~waterbody~~ **Significant Wetland** values at the time of the next review of the MEP".*

### **New Anticipated Environmental Result (AER)**

1955.The MDC submission (91.079) seeks the addition of a new AER, with one associated method of monitoring effectiveness, stating that there should be no occurrence of sea water intrusion into aquifers, as measured by Council's sentinel wells.

1956.The addition of this AER and associated method of monitoring effectiveness reflects the existing monitoring framework that measures conductivity levels. There is a further submission from Ngāi Tahu in support of this submission.

1957.I support this submission, and the specific recommended addition is in the Recommended section below.

### **Recommendation**

1958.Add a new AER as follows –

*"No occurrence of sea water intrusion into aquifers."*

1959.Add an associated method of monitoring effectiveness as follows –

*"Conductivity levels as measured by Council's sentinel wells."*



## Appendix 1: Recommended decisions on decisions requested

There are submission points that do not seek a specific decision, and for which one cannot be inferred. Due to their nature no recommendation can be made therefore they are labelled "*not applicable*" in the recommendation column of the table.

| Submission Point | Submitter                       | Volume | Chapter | Provision                         | Recommendation                                 |
|------------------|---------------------------------|--------|---------|-----------------------------------|--|
| 688.010          | J and J Hellstrom               | 1      | 5       | Chapter 5 – Introduction          | Accept in part                                 |
| 990.166          | Nelson Forests Limited          | 1      | 5       | Chapter 5 – Introduction          | Reject   |
| 962.031          | MFIA                            | 1      | 5       | Chapter 5 – Introduction          | Reject   |
| 280.011          | NMDHB                           | 1      | 5       | Chapter 5 – Introduction          | Accept   |
| 1189.032         | Ngāi Tahu                       | 1      | 5       | Chapter 5 – Introduction          | Accept   |
| 509.026          | Fish and Game                   | 1      | 5       | Chapter 5 – Introduction          | Accept in part                                 |
| 698.010          | EDS                             | 1      | 5       | Chapter 5 – Introduction          | Accept in part                                 |
| 716.041          | Friends                         | 1      | 5       | Chapter 5 – Introduction          | Accept in part                                 |
| 715.110          | Forest and Bird                 | 1      | 5       | Chapter 5 (lodged against 5.M.11) | Accept in part                                 |
| 995.009          | NZ Forest Productions           | 1      | 5       | Chapter 5 – General               | Accept in part (relief sought was conditional) |
| 288.005          | M Croad                         | 1      | 5       | Chapter 5 – General               | None – no relief sought                        |
| 297.005          | Red Barn Vineyards              | 1      | 5       | Chapter 5 – General               | None – no relief sought                        |
| 300.005          | Hawkswood Vineyard Limited      | 1      | 5       | Chapter 5 – General               | None – no relief sought                        |
| 17.001           | K Adams                         | 1      | 5       | Chapter 5 – General               | None – relief sought not clear                 |
| 293.001          | K Adams                         | 1      | 5       | Chapter 5 – General               | Reject   |
| 1084.005         | Raeburn Property Partnership    | 1      | 5       | Chapter 5 – General               | None – defer to general submissions            |
| 296.002          | Kilravock Trust – Vineyards     | 1      | 5       | Chapter 5 – General               | Reject   |
| 1188.004         | Ngāti Rārua                     | 1      | 5       | Chapter 5 – General               | None – specific relief unclear                 |
| 1186.019         | Te Ātiawa                       | 1      | 5       | Chapter 5 – General               | None – specific relief unclear                 |
| 712.036          | Flaxbourne Settlers Association | 1      | 5       | Chapter 5 – General               | Accept in part                                 |
| 961.001          | Chamber                         | 1      | 5       | Chapter 5 – General               | None – no relief sought                        |
| 1186.020         | Te Ātiawa                       | 1      | 5       | Chapter 5 – General               | Reject   |
| 35.001           | D Hulbert                       | 1      | 5       | Chapter 5 – General               | Reject   |

| Submission Point | Submitter                  | Volume | Chapter | Provision           | Recommendation                              |
|------------------|----------------------------|--------|---------|---------------------|---|
| 280.010          | NMDHB                      | 1      | 5       | Chapter 5 – General | Reject                                      |
| 715.005          | Forest and Bird            | 1      | 5       | Chapter 5 – General | None – predominantly a coastal space matter |
| 425.147          | Federated Farmers          | 1      | 5       | Chapter 5 – General | Reject                                      |
| 425.024          | Federated Farmers          | 1      | 5       | Issue 5A            | Accept                                      |
| 715.007          | Forest and Bird            | 1      | 5       | Issue 5A            | Accept                                      |
| 509.030          | Fish and Game              | 1      | 5       | Issue 5B            | Accept                                      |
| 715.011          | Forest and Bird            | 1      | 5       | Issue 5B            | Accept                                      |
| 962.012          | MFIA                       | 1      | 5       | Issue 5B            | Reject                                      |
| 1238.006         | Windermere Forests Limited | 1      | 5       | Issue 5B            | Reject                                      |
| 769.011          | Horticulture NZ            | 1      | 5       | Issue 5B            | Reject                                      |
| 501.005          | Ngāti Kuaia                | 1      | 5       | Issue 5B            | None – no relief sought                     |
| 425.025          | Federated Farmers          | 1      | 5       | Issue 5C            | Accept                                      |
| 962.013          | MFIA                       | 1      | 5       | Issue 5C            | Accept                                      |
| 1238.007         | Windermere Forests Limited | 1      | 5       | Issue 5C            | Accept                                      |
| 962.036          | MFIA                       | 1      | 5       | Issue 5C            | Reject                                      |
| 676.039          | Dairy NZ                   | 1      | 5       | Issue 5D            | Accept                                      |
| 715.056          | Forest and Bird            | 1      | 5       | Issue 5D            | Accept                                      |
| 509.072          | Fish and Game              | 1      | 5       | Issue 5D            | Reject                                      |
| 509.080          | Fish and Game              | 1      | 5       | Issue 5E            | Accept                                      |
| 676.046          | Dairy NZ                   | 1      | 5       | Issue 5E            | Accept                                      |
| 715.064          | Forest and Bird            | 1      | 5       | Issue 5E            | Accept                                      |
| 509.087          | Fish and Game              | 1      | 5       | Issue 5F            | Accept                                      |
| 715.071          | Forest and Bird            | 1      | 5       | Issue 5F            | Accept                                      |
| 509.091          | Fish and Game              | 1      | 5       | Issue 5G            | Accept                                      |
| 715.075          | Forest and Bird            | 1      | 5       | Issue 5G            | Accept                                      |
| 676.049          | Dairy NZ                   | 1      | 5       | Issue 5G            | Accept                                      |
| 455.016          | J Hickman                  | 1      | 5       | Issue 5H            | Accept                                      |
| 456.016          | G Mehlhopt                 | 1      | 5       | Issue 5H            | Accept                                      |
| 509.098          | Fish and Game              | 1      | 5       | Issue 5H            | Accept                                      |

| Submission Point | Submitter              | Volume | Chapter | Provision     | Recommendation                        |
|------------------|------------------------|--------|---------|---------------|---------------------------------------|
| 715.088          | Forest and Bird        | 1      | 5       | Issue 5H      | Accept                                |
| 676.060          | Dairy NZ               | 1      | 5       | Issue 5H      | Accept                                |
| 767.007          | Hawksbury Farm Limited | 1      | 5       | Issue 5H      | None – specific relief sought unclear |
| 676.067          | Dairy NZ               | 1      | 5       | Issue 5I      | Accept                                |
| 715.095          | Forest and Bird        | 1      | 5       | Issue 5I      | Accept                                |
| 431.089          | Wine Marlborough       | 1      | 5       | Issue 5I      | Reject                                |
| 457.029          | Accolade               | 1      | 5       | Issue 5I      | Reject                                |
| 473.076          | Delegat Limited        | 1      | 5       | Issue 5I      | Reject                                |
| 909.085          | Longfield Farm Limited | 1      | 5       | Issue 5I      | Reject                                |
| 1218.026         | Villa Maria            | 1      | 5       | Issue 5I      | Reject                                |
| 1251.022         | Fonterra               | 1      | 5       | Issue 5I      | Reject                                |
| 479.007          | DOC                    | 1      | 5       | Objective 5.1 | Accept                                |
| 509.027          | Fish and Game          | 1      | 5       | Objective 5.1 | Accept                                |
| 548.008          | AWUG                   | 1      | 5       | Objective 5.1 | Accept                                |
| 688.011          | J and J Hellstrom      | 1      | 5       | Objective 5.1 | Accept                                |
| 715.008          | Forest and Bird        | 1      | 5       | Objective 5.1 | Accept                                |
| 908.001          | Lion                   | 1      | 5       | Objective 5.1 | Accept                                |
| 1039.004         | Pernod Ricard          | 1      | 5       | Objective 5.1 | Accept                                |
| 425.026          | Federated Farmers      | 1      | 5       | Objective 5.1 | Reject                                |
| 769.008          | Horticulture NZ        | 1      | 5       | Objective 5.1 | Reject                                |
| 1201.015         | Trustpower Limited     | 1      | 5       | Objective 5.1 | Reject                                |
| 962.032          | MFIA                   | 1      | 5       | Objective 5.1 | None                                  |
| 479.009          | DOC                    | 1      | 5       | Objective 5.2 | Accept                                |
| 509.031          | Fish and Game          | 1      | 5       | Objective 5.2 | Accept                                |
| 548.011          | AWUG                   | 1      | 5       | Objective 5.2 | Accept                                |
| 688.014          | J and J Hellstrom      | 1      | 5       | Objective 5.2 | Accept                                |
| 715.012          | Forest and Bird        | 1      | 5       | Objective 5.2 | Accept                                |
| 908.002          | Lion                   | 1      | 5       | Objective 5.2 | Accept                                |
| 1039.006         | Pernod Ricard          | 1      | 5       | Objective 5.2 | Accept                                |

| Submission Point | Submitter                   | Volume | Chapter | Provision                                | Recommendation          |
|------------------|-----------------------------|--------|---------|--|-------------------------|
| 425.027          | Federated Farmers           | 1      | 5       | Objective 5.2                            | Accept                  |
| 1201.018         | Trustpower Limited          | 1      | 5       | Objective 5.2                            | Reject                  |
| 1189.035         | Ngāi Tahu                   | 1      | 5       | Objective 5.2                            | Reject                  |
| 280.012          | NMDHB                       | 1      | 5       | Objective 5.2                            | Reject                  |
| 716.045          | Friends                     | 1      | 5       | Objective 5.2                            | Reject                  |
| 769.012          | Horticulture NZ             | 1      | 5       | Objective 5.2                            | Reject                  |
| 1251.001         | Fonterra                    | 1      | 5       | Objective 5.2                            | Reject                  |
| 1189.034         | Ngāi Tahu                   | 1      | 5       | Objective 5.2 (lodged against Chapter 5) | Reject                  |
| 509.048          | Fish and Game               | 1      | 5       | Objective 5.2 (new policy)               | Reject                  |
| 370.005          | K Saville-Smith and B James | 1      | 5       | Objective 5.2 (new policy)               | Reject                  |
| 1235.004         | Wairau Valley Residents     | 1      | 5       | Objective 5.2                            | None – no relief sought |
| 370.006          | K Saville-Smith and B James | 1      | 5       | Objective 5.3                            | Accept                  |
| 425.029          | Federated Farmers           | 1      | 5       | Objective 5.3                            | Accept                  |
| 431.006          | Wine Marlborough            | 1      | 5       | Objective 5.3                            | Accept                  |
| 457.006          | Accolade                    | 1      | 5       | Objective 5.3                            | Accept                  |
| 473.005          | Delegat Limited             | 1      | 5       | Objective 5.3                            | Accept                  |
| 484.008          | Clintondale                 | 1      | 5       | Objective 5.3                            | Accept                  |
| 688.018          | J and J Hellstrom           | 1      | 5       | Objective 5.3                            | Accept                  |
| 776.003          | Indevin Estates Limited     | 1      | 5       | Objective 5.3                            | Accept                  |
| 908.003          | Lion                        | 1      | 5       | Objective 5.3                            | Accept                  |
| 1039.025         | Pernod Ricard               | 1      | 5       | Objective 5.3                            | Accept                  |
| 1201.042         | Trustpower Limited          | 1      | 5       | Objective 5.3                            | Accept                  |
| 909.006          | Longfield Farm Limited      | 1      | 5       | Objective 5.3                            | Accept                  |
| 715.038          | Forest and Bird             | 1      | 5       | Objective 5.3                            | Accept                  |
| 962.014          | MFIA                        | 1      | 5       | Objective 5.3                            | Accept                  |
| 1218.006         | Villa Maria                 | 1      | 5       | Objective 5.3                            | Accept                  |
| 1238.008         | Windermere Forests Limited  | 1      | 5       | Objective 5.3                            | Accept                  |
| 509.057          | Fish and Game               | 1      | 5       | Objective 5.3                            | Reject                  |
| 509.069          | Fish and Game               | 1      | 5       | Objective 5.3                            | Reject                  |

| Submission Point | Submitter                   | Volume | Chapter | Provision                                    | Recommendation          |
|------------------|-----------------------------|--------|---------|--|-------------------------|
| 907.001          | Levide Capital Limited      | 1      | 5       | Objective 5.3                                | Reject                  |
| 431.017          | Wine Marlborough            | 1      | 5       | Objective 5.4                                | Accept                  |
| 457.017          | Accolade                    | 1      | 5       | Objective 5.4                                | Accept                  |
| 462.051          | BRIL                        | 1      | 5       | Objective 5.4                                | Accept                  |
| 484.020          | Clintondale                 | 1      | 5       | Objective 5.4                                | Accept                  |
| 1189.054         | Ngāi Tahu                   | 1      | 5       | Objective 5.4                                | Accept                  |
| 908.005          | Lion                        | 1      | 5       | Objective 5.4                                | Accept                  |
| 1039.040         | Pernod Ricard               | 1      | 5       | Objective 5.4                                | Accept                  |
| 1201.045         | Trustpower Limited          | 1      | 5       | Objective 5.4                                | Accept                  |
| 909.017          | Longfield Farm Limited      | 1      | 5       | Objective 5.4                                | Accept                  |
| 1218.017         | Villa Maria                 | 1      | 5       | Objective 5.4                                | Accept                  |
| 676.040          | Dairy NZ                    | 1      | 5       | Objective 5.4                                | Reject                  |
| 698.028          | EDS                         | 1      | 5       | Objective 5.4                                | Reject                  |
| 715.057          | Forest and Bird             | 1      | 5       | Objective 5.4                                | Reject                  |
| 509.073          | Fish and Game               | 1      | 5       | Objective 5.4                                | Reject                  |
| 907.006          | Levide Capital Limited      | 1      | 5       | Objective 5.4                                | Reject                  |
| 273.002          | B James                     | 1      | 5       | Objective 5.5                                | Accept                  |
| 370.001          | K Saville-Smith and B James | 1      | 5       | Objective 5.5                                | Accept                  |
| 479.037          | DOC                         | 1      | 5       | Objective 5.5                                | Accept                  |
| 688.022          | J and J Hellstrom           | 1      | 5       | Objective 5.5                                | Accept                  |
| 1189.057         | Ngāi Tahu                   | 1      | 5       | Objective 5.5                                | Accept                  |
| 509.081          | Fish and Game               | 1      | 5       | Objective 5.5                                | Reject                  |
| 676.047          | Dairy NZ                    | 1      | 5       | Objective 5.5                                | Reject                  |
| 908.006          | Lion                        | 1      | 5       | Objective 5.5                                | Reject                  |
| 1039.047         | Pernod Ricard               | 1      | 5       | Objective 5.5                                | Reject                  |
| 715.065          | Forest and Bird             | 1      | 5       | Objective 5.5 (New Policy)                   | Reject                  |
| 425.064          | Federated Farmers           | 1      | 5       | Objective 5.5 (New Policy)                   | Reject                  |
| 1258.010         | G Barnett                   | 1      | 5       | Objective 5.5 (lodged against Objective 5.4) | None – no relief sought |
| 479.043          | DOC                         | 1      | 5       | Objective 5.6                                | Accept                  |

| Submission Point | Submitter               | Volume | Chapter | Provision                                 | Recommendation                |
|------------------|-------------------------|--------|---------|---|-------------------------------|
| 688.023          | J and J Hellstrom       | 1      | 5       | Objective 5.6                             | Accept                        |
| 1189.058         | Ngāi Tahu               | 1      | 5       | Objective 5.6                             | Accept                        |
| 509.088          | Fish and Game           | 1      | 5       | Objective 5.6                             | Reject                        |
| 698.032          | EDS                     | 1      | 5       | Objective 5.6                             | Reject                        |
| 715.072          | Forest and Bird         | 1      | 5       | Objective 5.6                             | Reject                        |
| 338.004          | G Lowe                  | 1      | 5       | Objective 5.6 (lodged against Appendix 5) | Accept                        |
| 338.006          | G Lowe                  | 1      | 5       | Objective 5.6                             | Accept                        |
| 908.007          | Lion                    | 1      | 5       | Objective 5.6                             | Reject                        |
| 1039.052         | Pernod Ricard           | 1      | 5       | Objective 5.6                             | Reject                        |
| 431.022          | Wine Marlborough        | 1      | 5       | Objective 5.7                             | Accept                        |
| 457.022          | Accolade                | 1      | 5       | Objective 5.7                             | Accept                        |
| 473.019          | Delegat Limited         | 1      | 5       | Objective 5.7                             | Accept                        |
| 479.046          | DOC                     | 1      | 5       | Objective 5.7                             | Accept                        |
| 484.025          | Clintondale             | 1      | 5       | Objective 5.7                             | Accept                        |
| 509.092          | Fish and Game           | 1      | 5       | Objective 5.7                             | Accept                        |
| 769.028          | Horticulture NZ         | 1      | 5       | Objective 5.7                             | Accept                        |
| 676.050          | Dairy NZ                | 1      | 5       | Objective 5.7                             | Accept                        |
| 1189.060         | Ngāi Tahu               | 1      | 5       | Objective 5.7                             | Accept                        |
| 1201.047         | Trustpower Limited      | 1      | 5       | Objective 5.7                             | Accept                        |
| 909.022          | Longfield Farm Limited  | 1      | 5       | Objective 5.7                             | Accept                        |
| 776.014          | Indevin Estates Limited | 1      | 5       | Objective 5.7                             | Accept                        |
| 961.004          | Chamber                 | 1      | 5       | Objective 5.7                             | Accept                        |
| 1218.022         | Villa Maria             | 1      | 5       | Objective 5.7                             | Accept                        |
| 715.076          | Forest and Bird         | 1      | 5       | Objective 5.7                             | Reject                        |
| 908.008          | Lion                    | 1      | 5       | Objective 5.7                             | Reject                        |
| 1039.055         | Pernod Ricard           | 1      | 5       | Objective 5.7                             | Reject                        |
| 907.011          | Levide Capital Limited  | 1      | 5       | Objective 5.7                             | None – no clear relief sought |
| 431.025          | Wine Marlborough        | 1      | 5       | Objective 5.8                             | Accept                        |
| 454.132          | K Loe                   | 1      | 5       | Objective 5.8                             | Accept                        |

| Submission Point | Submitter                         | Volume | Chapter | Provision                  | Recommendation                        |
|------------------|-----------------------------------|--------|---------|----------------------------|---------------------------------------|
| 455.017          | J Hickman                         | 1      | 5       | Objective 5.8              | Accept                                |
| 456.017          | G Mehlhopt                        | 1      | 5       | Objective 5.8              | Accept                                |
| 457.025          | Accolade                          | 1      | 5       | Objective 5.8              | Accept                                |
| 462.055          | BRIL                              | 1      | 5       | Objective 5.8              | Accept                                |
| 472.004          | ME Taylor Limited                 | 1      | 5       | Objective 5.8              | Accept                                |
| 473.022          | Delegat Limited                   | 1      | 5       | Objective 5.8              | Accept                                |
| 970.006          | Middlehurst Station Limited       | 1      | 5       | Objective 5.8              | Accept                                |
| 484.028          | Clintondale                       | 1      | 5       | Objective 5.8              | Accept                                |
| 509.099          | Fish and Game                     | 1      | 5       | Objective 5.8              | Accept                                |
| 1039.065         | Pernod Ricard                     | 1      | 5       | Objective 5.8              | Accept                                |
| 676.061          | Dairy NZ                          | 1      | 5       | Objective 5.8              | Accept                                |
| 1189.067         | Ngāi Tahu                         | 1      | 5       | Objective 5.8              | Accept                                |
| 1237.010         | Willowgrove Dairies Limited       | 1      | 5       | Objective 5.8              | Accept                                |
| 909.023          | Longfield Farm Limited            | 1      | 5       | Objective 5.8              | Accept                                |
| 776.017          | Indevin Estates Limited           | 1      | 5       | Objective 5.8              | Accept                                |
| 1218.023         | Villa Maria                       | 1      | 5       | Objective 5.8              | Accept                                |
| 908.009          | Lion                              | 1      | 5       | Objective 5.8              | None – specific relief sought unclear |
| 715.089          | Forest and Bird                   | 1      | 5       | Objective 5.8              | Reject                                |
| 1186.045         | Te Ātiawa                         | 1      | 5       | Objective 5.8              | Reject                                |
| 359.005          | Wilkes RM Limited                 | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 909.083          | Longfield Farm Limited            | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 457.071          | Accolade                          | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 431.088          | Wine Marlborough                  | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 1218.082         | Villa Maria                       | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 473.074          | Delegat Limited                   | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 1159.004         | Spring Creek Vintners             | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 975.001          | Mufaletta                         | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 966.004          | Marlborough Research Centre Trust | 1      | 5       | Objective 5.8 (new policy) | Reject                                |
| 844.002          | K & L Morgan                      | 1      | 5       | Objective 5.8 (new policy) | Reject                                |

| Submission Point | Submitter               | Volume | Chapter | Provision                               | Recommendation |
|------------------|-------------------------|--------|---------|---|----------------|
| 1162.003         | T & S Jeffries et al.   | 1      | 5       | Objective 5.8 (new policy)              | Reject         |
| 776.044          | Indevin Estates Limited | 1      | 5       | Objective 5.8 (new policy)              | Reject         |
| 676.068          | Dairy NZ                | 1      | 5       | Objective 5.9                           | Accept         |
| 688.025          | J and J Hellstrom       | 1      | 5       | Objective 5.9                           | Accept         |
| 715.096          | Forest and Bird         | 1      | 5       | Objective 5.9                           | Accept         |
| 908.010          | Lion                    | 1      | 5       | Objective 5.9                           | Accept         |
| 1039.071         | Pernod Ricard           | 1      | 5       | Objective 5.9                           | Accept         |
| 698.036          | EDS                     | 1      | 5       | Objective 5.9                           | Accept         |
| 431.090          | Wine Marlborough        | 1      | 5       | Objective 5.9                           | Reject         |
| 457.070          | Accolade                | 1      | 5       | Objective 5.9                           | Reject         |
| 473.066          | Delegat Limited         | 1      | 5       | Objective 5.9                           | Reject         |
| 909.086          | Longfield Farm Limited  | 1      | 5       | Objective 5.9                           | Reject         |
| 1218.084         | Villa Maria             | 1      | 5       | Objective 5.9                           | Reject         |
| 1251.023         | Fonterra                | 1      | 5       | Objective 5.9                           | Reject         |
| 479.008          | DOC                     | 1      | 5       | Policy 5.1.1                            | Accept         |
| 548.009          | AWUG                    | 1      | 5       | Policy 5.1.1                            | Accept         |
| 631.003          | Constellation           | 1      | 5       | Policy 5.1.1                            | Accept         |
| 688.012          | J and J Hellstrom       | 1      | 5       | Policy 5.1.1                            | Accept         |
| 778.010          | Irrigation NZ           | 1      | 5       | Policy 5.1.1                            | Accept         |
| 1201.016         | Trustpower Limited      | 1      | 5       | Policy 5.1.1                            | Accept         |
| 1242.003         | Yealands Estate Limited | 1      | 5       | Policy 5.1.1                            | Accept         |
| 425.030          | Federated Farmers       | 1      | 5       | Policy 5.1.1                            | Accept in part |
| 509.028          | Fish and Game           | 1      | 5       | Policy 5.1.1                            | Reject         |
| 698.011          | EDS                     | 1      | 5       | Policy 5.1.1                            | Reject         |
| 715.009          | Forest and Bird         | 1      | 5       | Policy 5.1.1                            | Reject         |
| 715.006          | Forest and Bird         | 1      | 5       | Policy 5.1.1 (lodged against Chapter 5) | Reject         |
| 716.042          | Friends                 | 1      | 5       | Policy 5.1.1                            | None           |
| 676.018          | Dairy NZ                | 1      | 5       | Policy 5.1.1                            | Reject         |
| 769.009          | Horticulture NZ         | 1      | 5       | Policy 5.1.1                            | Reject         |



| Submission Point | Submitter            | Volume | Chapter | Provision                                 | Recommendation |
|------------------|----------------------|--------|---------|---|----------------|
| 509.371          | Fish and Game        | 1      | 5       | Policy 5.1.1 (lodged against Appx 6)      | Reject         |
| 509.029          | Fish and Game        | 1      | 5       | Policy 5.1.2                              | Accept         |
| 548.010          | AWUG                 | 1      | 5       | Policy 5.1.2                              | Accept         |
| 688.013          | J and J Hellstrom    | 1      | 5       | Policy 5.1.2                              | Accept         |
| 715.010          | Forest and Bird      | 1      | 5       | Policy 5.1.2                              | Accept         |
| 778.011          | Irrigation NZ        | 1      | 5       | Policy 5.1.2                              | Accept         |
| 1039.005         | Pernod Ricard        | 1      | 5       | Policy 5.1.2                              | Accept         |
| 1201.017         | Trustpower Limited   | 1      | 5       | Policy 5.1.2                              | Accept         |
| 769.010          | Horticulture NZ      | 1      | 5       | Policy 5.1.2                              | Reject         |
| 217.003          | G Crosswell (estate) | 1      | 5       | Policy 5.1.2                              | Reject         |
| 716.043          | Friends              | 1      | 5       | Policy 5.1.2                              | None           |
| 1189.033         | Ngāi Tahu            | 1      | 5       | New Policy (associated with Policy 5.1.2) | Reject         |
| 548.012          | AWUG                 | 1      | 5       | Policy 5.2.1                              | Accept in part |
| 479.010          | DOC                  | 1      | 5       | Policy 5.2.1                              | Accept in part |
| 715.013          | Forest and Bird      | 1      | 5       | Policy 5.2.1                              | Accept in part |
| 425.031          | Federated Farmers    | 1      | 5       | Policy 5.2.1                              | Reject         |
| 509.032          | Fish and Game        | 1      | 5       | Policy 5.2.1                              | Reject         |
| 698.012          | EDS                  | 1      | 5       | Policy 5.2.1                              | Reject         |
| 778.012          | Irrigation NZ        | 1      | 5       | Policy 5.2.1                              | Reject         |
| 717.019          | Fulton Hogan Limited | 1      | 5       | Policy 5.2.1                              | Reject         |
| 769.013          | Horticulture NZ      | 1      | 5       | Policy 5.2.1                              | Reject         |
| 1251.002         | Fonterra             | 1      | 5       | Policy 5.2.1                              | Reject         |
| 1039.007         | Pernod Ricard        | 1      | 5       | Policy 5.2.1                              | Reject         |
| 1201.019         | Trustpower Limited   | 1      | 5       | Policy 5.2.1                              | Accept         |
| 1189.036         | Ngāi Tahu            | 1      | 5       | Policy 5.2.1                              | Reject         |
| 479.011          | DOC                  | 1      | 5       | Policy 5.2.2                              | Accept         |
| 509.033          | Fish and Game        | 1      | 5       | Policy 5.2.2                              | Accept         |
| 548.013          | AWUG                 | 1      | 5       | Policy 5.2.2                              | Accept         |
| 715.014          | Forest and Bird      | 1      | 5       | Policy 5.2.2                              | Accept         |

| Submission Point | Submitter               | Volume | Chapter | Provision    | Recommendation          |
|------------------|-------------------------|--------|---------|--------------|-------------------------|
| 1189.037         | Ngāi Tahu               | 1      | 5       | Policy 5.2.2 | Accept                  |
| 425.032          | Federated Farmers       | 1      | 5       | Policy 5.2.2 | Reject                  |
| 1201.020         | Trustpower Limited      | 1      | 5       | Policy 5.2.2 | Reject                  |
| 778.013          | Irrigation NZ           | 1      | 5       | Policy 5.2.2 | Reject                  |
| 1039.008         | Pernod Ricard           | 1      | 5       | Policy 5.2.2 | Reject                  |
| 501.004          | Ngāti Kuia              | 1      | 5       | Policy 5.2.2 | None – no relief sought |
| 548.014          | AWUG                    | 1      | 5       | Policy 5.2.3 | Accept                  |
| 479.012          | DOC                     | 1      | 5       | Policy 5.2.3 | Accept                  |
| 715.015          | Forest and Bird         | 1      | 5       | Policy 5.2.3 | Accept                  |
| 778.014          | Irrigation NZ           | 1      | 5       | Policy 5.2.3 | Accept                  |
| 166.024          | Ngāti Toa               | 1      | 5       | Policy 5.2.3 | Reject                  |
| 166.064          | Ngāti Toa               | 1      | 5       | Policy 5.2.3 | Reject                  |
| 1189.038         | Ngāi Tahu               | 1      | 5       | Policy 5.2.3 | Reject                  |
| 698.013          | EDS                     | 1      | 5       | Policy 5.2.3 | Reject                  |
| 676.019          | Dairy NZ                | 1      | 5       | Policy 5.2.3 | Reject                  |
| 425.033          | Federated Farmers       | 1      | 5       | Policy 5.2.3 | Reject                  |
| 1201.021         | Trustpower Limited      | 1      | 5       | Policy 5.2.3 | Reject                  |
| 1002.016         | NZTA                    | 1      | 5       | Policy 5.2.3 | Reject                  |
| 509.034          | Fish and Game           | 1      | 5       | Policy 5.2.3 | Reject                  |
| 1242.004         | Yealands Estate Limited | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 359.037          | WilkesRM Limited        | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 431.004          | Wine Marlborough        | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 462.046          | BRIL                    | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 473.003          | Delegat Limited         | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 479.013          | DOC                     | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 548.015          | AWUG                    | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 631.004          | Constellation           | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 715.016          | Forest and Bird         | 1      | 5       | Policy 5.2.4 | Accept in part          |
| 776.001          | Indevin Estates Limited | 1      | 5       | Policy 5.2.4 | Accept in part          |

| Submission Point | Submitter                       | Volume | Chapter | Provision                                   | Recommendation                 |
|------------------|---------------------------------|--------|---------|---|--------------------------------|
| 909.004          | Longfield Farm Limited          | 1      | 5       | Policy 5.2.4                                | Accept in part                 |
| 970.003          | Middlehurst Station Limited     | 1      | 5       | Policy 5.2.4                                | Accept in part                 |
| 1124.028         | S MacKenzie                     | 1      | 5       | Policy 5.2.4                                | Accept in part                 |
| 1218.004         | Villa Maria                     | 1      | 5       | Policy 5.2.4                                | Accept in part                 |
| 1237.009         | Willowgrove Dairies Limited     | 1      | 5       | Policy 5.2.4                                | Accept in part                 |
| 100.013          | East Bay Conservation Society   | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 425.034          | Federated Farmers               | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 778.015          | Irrigation NZ                   | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 1201.030         | Trustpower Limited              | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 1251.003         | Fonterra                        | 1      | 5       | Policy 5.2.4                                | Accept in part (clarification) |
| 484.004          | Clintondale                     | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 769.014          | Horticulture NZ                 | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 717.020          | Fulton Hogan Limited            | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 1039.009         | Pernod Ricard                   | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 501.003          | Ngāti Kuia                      | 1      | 5       | Policy 5.2.4                                | None – no relief sought        |
| 688.015          | J and J Hellstrom               | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 509.035          | Fish and Game                   | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 698.014          | EDS                             | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 716.046          | Friends                         | 1      | 5       | Policy 5.2.4                                | Reject                         |
| 1189.039         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.4                                | Accept in part                 |
| 479.273          | DOC                             | 1      | 5       | Policy 5.2.4 (lodged against Appx 6, Sch 3) | Reject                         |
| 509.388          | Fish and Game                   | 1      | 5       | Policy 5.2.4 (lodged against Appx 6, Sch 3) | Reject                         |
| 425.035          | Federated Farmers               | 1      | 5       | Policy 5.2.5                                | Accept in part                 |
| 479.014          | DOC                             | 1      | 5       | Policy 5.2.5                                | Accept in part                 |
| 548.016          | AWUG                            | 1      | 5       | Policy 5.2.5                                | Accept in part                 |
| 712.059          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.2.5                                | Accept in part                 |
| 715.017          | Forest and Bird                 | 1      | 5       | Policy 5.2.5                                | Accept in part                 |
| 998.001          | NZ Pork                         | 1      | 5       | Policy 5.2.5                                | Accept in part                 |
| 1201.022         | Trustpower Limited              | 1      | 5       | Policy 5.2.5                                | Accept in part                 |

| Submission Point | Submitter                   | Volume | Chapter | Provision                            | Recommendation          |
|------------------|-----------------------------|--------|---------|--------------------------------------|-------------------------|
| 778.016          | Irrigation NZ               | 1      | 5       | Policy 5.2.5                         | Accept in part          |
| 509.036          | Fish and Game               | 1      | 5       | Policy 5.2.5                         | Reject                  |
| 698.015          | EDS                         | 1      | 5       | Policy 5.2.5                         | Reject                  |
| 769.015          | Horticulture NZ             | 1      | 5       | Policy 5.2.5                         | Reject                  |
| 1039.010         | Pernod Ricard               | 1      | 5       | Policy 5.2.5                         | Reject                  |
| 993.004          | FENZ                        | 1      | 5       | Policy 5.2.5                         | Reject                  |
| 1004.002         | Oil Companies               | 1      | 5       | Policy 5.2.5                         | Reject                  |
| 1251.004         | Fonterra                    | 1      | 5       | Policy 5.2.5                         | Accept in part          |
| 275.001          | M Sandall                   | 1      | 5       | Policy 5.2.5 (lodged against Appx 6) | Reject                  |
| 273.001          | B James                     | 1      | 5       | Policy 5.2.5                         | None – no relief sought |
| 370.004          | K Saville-Smith and B James | 1      | 5       | Policy 5.2.5                         | None – no relief sought |
| 425.773          | Federated Farmers           | 1      | 5       | Policy 5.2.5 (lodged against Appx 6) | None – no relief sought |
| 425.036          | Federated Farmers           | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 431.005          | Wine Marlborough            | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 457.005          | Accolade                    | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 462.047          | BRIL                        | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 473.004          | Delegat Limited             | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 631.005          | Constellation               | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 776.002          | Indevin Estates Limited     | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 909.005          | Longfield Farm Limited      | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 484.005          | Clintondale                 | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 715.018          | Forest and Bird             | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 1039.011         | Pernod Ricard               | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 1201.023         | Trustpower Limited          | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 1218.005         | Villa Maria                 | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 1242.005         | Yealands Estate Limited     | 1      | 5       | Policy 5.2.6                         | Accept                  |
| 548.017          | AWUG                        | 1      | 5       | Policy 5.2.6                         | Reject                  |
| 778.017          | Irrigation NZ               | 1      | 5       | Policy 5.2.6                         | Reject                  |
| 698.016          | EDS                         | 1      | 5       | Policy 5.2.6                         | Reject                  |

| Submission Point | Submitter            | Volume | Chapter | Provision    | Recommendation |
|------------------|----------------------|--------|---------|--------------|----------------|
| 509.037          | Fish and Game        | 1      | 5       | Policy 5.2.6 | Reject         |
| 479.015          | DOC                  | 1      | 5       | Policy 5.2.7 | Accept         |
| 484.006          | Clintondale          | 1      | 5       | Policy 5.2.7 | Accept         |
| 509.038          | Fish and Game        | 1      | 5       | Policy 5.2.7 | Accept         |
| 548.018          | AWUG                 | 1      | 5       | Policy 5.2.7 | Accept         |
| 715.019          | Forest and Bird      | 1      | 5       | Policy 5.2.7 | Accept         |
| 778.018          | Irrigation NZ        | 1      | 5       | Policy 5.2.7 | Accept         |
| 1039.012         | Pernod Ricard        | 1      | 5       | Policy 5.2.7 | Accept         |
| 1201.024         | Trustpower Limited   | 1      | 5       | Policy 5.2.7 | Accept         |
| 425.037          | Federated Farmers    | 1      | 5       | Policy 5.2.7 | Reject         |
| 1002.017         | NZTA                 | 1      | 5       | Policy 5.2.7 | Accept         |
| 769.016          | Horticulture NZ      | 1      | 5       | Policy 5.2.7 | Reject         |
| 425.038          | Federated Farmers    | 1      | 5       | Policy 5.2.8 | Accept         |
| 479.016          | DOC                  | 1      | 5       | Policy 5.2.8 | Accept         |
| 548.019          | AWUG                 | 1      | 5       | Policy 5.2.8 | Accept         |
| 676.020          | Dairy NZ             | 1      | 5       | Policy 5.2.8 | Accept         |
| 715.020          | Forest and Bird      | 1      | 5       | Policy 5.2.8 | Accept         |
| 717.021          | Fulton Hogan Limited | 1      | 5       | Policy 5.2.8 | Accept         |
| 778.019          | Irrigation NZ        | 1      | 5       | Policy 5.2.8 | Accept         |
| 1201.025         | Trustpower Limited   | 1      | 5       | Policy 5.2.8 | Accept         |
| 1002.018         | NZTA                 | 1      | 5       | Policy 5.2.8 | Accept         |
| 1039.013         | Pernod Ricard        | 1      | 5       | Policy 5.2.8 | Reject         |
| 509.039          | Fish and Game        | 1      | 5       | Policy 5.2.8 | Reject         |
| 698.017          | EDS                  | 1      | 5       | Policy 5.2.8 | Reject         |
| 548.020          | AWUG                 | 1      | 5       | Policy 5.2.9 | Accept         |
| 676.021          | Dairy NZ             | 1      | 5       | Policy 5.2.9 | Accept         |
| 715.021          | Forest and Bird      | 1      | 5       | Policy 5.2.9 | Accept         |
| 778.020          | Irrigation NZ        | 1      | 5       | Policy 5.2.9 | Accept         |
| 1201.026         | Trustpower Limited   | 1      | 5       | Policy 5.2.9 | Accept         |

| Submission Point | Submitter               | Volume | Chapter | Provision                                 | Recommendation          |
|------------------|-------------------------|--------|---------|---|-------------------------|
| 1039.014         | Pernod Ricard           | 1      | 5       | Policy 5.2.9                              | Accept                  |
| 425.039          | Federated Farmers       | 1      | 5       | Policy 5.2.9                              | Reject                  |
| 509.040          | Fish and Game           | 1      | 5       | Policy 5.2.9                              | Reject                  |
| 698.018          | EDS                     | 1      | 5       | Policy 5.2.9                              | Reject                  |
| 1002.019         | NZTA                    | 1      | 5       | Policy 5.2.9                              | Reject                  |
| 479.017          | DOC                     | 1      | 5       | Policy 5.2.9                              | Reject                  |
| 1251.005         | Fonterra                | 1      | 5       | Policy 5.2.9                              | None – no relief sought |
| 548.021          | AWUG                    | 1      | 5       | Policy 5.2.10                             | Accept                  |
| 715.022          | Forest and Bird         | 1      | 5       | Policy 5.2.10                             | Accept                  |
| 778.021          | Irrigation NZ           | 1      | 5       | Policy 5.2.10                             | Accept                  |
| 1201.027         | Trustpower Limited      | 1      | 5       | Policy 5.2.10                             | Accept                  |
| 479.018          | DOC                     | 1      | 5       | Policy 5.2.10                             | Reject                  |
| 509.041          | Fish and Game           | 1      | 5       | Policy 5.2.10                             | Reject                  |
| 1251.006         | Fonterra                | 1      | 5       | Policy 5.2.10                             | Reject                  |
| 1189.040         | Ngāi Tahu               | 1      | 5       | Policy 5.2.10                             | Reject                  |
| 479.019          | DOC                     | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 509.042          | Fish and Game           | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 631.006          | Constellation           | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 962.025          | MFIA                    | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 992.007          | NZDF                    | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 1124.029         | S MacKenzie             | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 715.023          | Forest and Bird         | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 1201.028         | Trustpower Limited      | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 778.002          | Irrigation NZ           | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 1242.006         | Yealands Estate Limited | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 484.007          | Clintondale             | 1      | 5       | Policy 5.2.11                             | Accept                  |
| 331.002          | P Neal                  | 1      | 5       | Policy 5.2.11 (lodged against Appendix 6) | Accept                  |
| 688.016          | J and J Hellstrom       | 1      | 5       | Policy 5.2.11                             | None at this time       |
| 717.022          | Fulton Hogan Limited    | 1      | 5       | Policy 5.2.11                             | Reject                  |

| Submission Point | Submitter                       | Volume | Chapter | Provision     | Recommendation          |
|------------------|---------------------------------|--------|---------|---------------|-------------------------|
| 769.017          | Horticulture NZ                 | 1      | 5       | Policy 5.2.11 | Reject                  |
| 1039.015         | Pernod Ricard                   | 1      | 5       | Policy 5.2.11 | None – no relief sought |
| 715.024          | Forest and Bird                 | 1      | 5       | Policy 5.2.12 | Accept                  |
| 778.023          | Irrigation NZ                   | 1      | 5       | Policy 5.2.12 | Accept                  |
| 1201.029         | Trustpower Limited              | 1      | 5       | Policy 5.2.12 | Accept                  |
| 166.023          | Ngāti Toa                       | 1      | 5       | Policy 5.2.12 | Reject                  |
| 166.063          | Ngāti Toa                       | 1      | 5       | Policy 5.2.12 | Reject                  |
| 688.017          | J and J Hellstrom               | 1      | 5       | Policy 5.2.12 | None at this time       |
| 717.023          | Fulton Hogan Limited            | 1      | 5       | Policy 5.2.12 | Reject                  |
| 1251.007         | Fonterra                        | 1      | 5       | Policy 5.2.12 | Reject                  |
| 479.020          | DOC                             | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 548.022          | AWUG                            | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 712.060          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 715.025          | Forest and Bird                 | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 778.024          | Irrigation NZ                   | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 1124.030         | S MacKenzie                     | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 1189.041         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 1201.031         | Trustpower Limited              | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 425.040          | Federated Farmers               | 1      | 5       | Policy 5.2.13 | Reject                  |
| 509.043          | Fish and Game                   | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 698.019          | EDS                             | 1      | 5       | Policy 5.2.13 | Accept in part          |
| 676.022          | Dairy NZ                        | 1      | 5       | Policy 5.2.13 | Reject                  |
| 1039.016         | Pernod Ricard                   | 1      | 5       | Policy 5.2.13 | Reject                  |
| 479.021          | DOC                             | 1      | 5       | Policy 5.2.14 | Accept                  |
| 548.023          | AWUG                            | 1      | 5       | Policy 5.2.14 | Accept                  |
| 631.007          | Constellation                   | 1      | 5       | Policy 5.2.14 | Accept                  |
| 676.023          | Dairy NZ                        | 1      | 5       | Policy 5.2.14 | Accept                  |
| 715.026          | Forest and Bird                 | 1      | 5       | Policy 5.2.14 | Accept                  |
| 778.025          | Irrigation NZ                   | 1      | 5       | Policy 5.2.14 | Accept                  |

| Submission Point | Submitter               | Volume | Chapter | Provision                                    | Recommendation |
|------------------|-------------------------|--------|---------|--|----------------|
| 1039.017         | Pernod Ricard           | 1      | 5       | Policy 5.2.14                                | Accept         |
| 1201.032         | Trustpower Limited      | 1      | 5       | Policy 5.2.14                                | Accept         |
| 1242.007         | Yealands Estate Limited | 1      | 5       | Policy 5.2.14                                | Accept         |
| 425.041          | Federated Farmers       | 1      | 5       | Policy 5.2.14                                | Reject         |
| 509.044          | Fish and Game           | 1      | 5       | Policy 5.2.14                                | Reject         |
| 479.022          | DOC                     | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 548.024          | AWUG                    | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 501.002          | Ngāti Kuia              | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 676.024          | Dairy NZ                | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 1124.031         | S MacKenzie             | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 1189.042         | Ngāi Tahu               | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 778.026          | Irrigation NZ           | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 1201.033         | Trustpower Limited      | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 715.027          | Forest and Bird         | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 509.045          | Fish and Game           | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 698.020          | EDS                     | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 1039.018         | Pernod Ricard           | 1      | 5       | Policy 5.2.15                                | Accept in part |
| 479.023          | DOC                     | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 548.025          | AWUG                    | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 715.028          | Forest and Bird         | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 778.027          | Irrigation NZ           | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 509.046          | Fish and Game           | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 1039.019         | Pernod Ricard           | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 1201.035         | Trustpower Limited      | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 1189.043         | Ngāi Tahu               | 1      | 5       | Policy 5.2.16 (lodged against Policy 5.2.18) | Accept in part |
| 1251.008         | Fonterra                | 1      | 5       | Policy 5.2.16                                | Accept in part |
| 509.047          | Fish and Game           | 1      | 5       | Policy 5.2.17                                | Accept         |
| 548.026          | AWUG                    | 1      | 5       | Policy 5.2.17                                | Accept         |
| 676.025          | Dairy NZ                | 1      | 5       | Policy 5.2.17                                | Accept         |



| Submission Point | Submitter                       | Volume | Chapter | Provision     | Recommendation |
|------------------|---------------------------------|--------|---------|---------------|----------------|
| 712.061          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.2.17 | Accept         |
| 715.029          | Forest and Bird                 | 1      | 5       | Policy 5.2.17 | Accept         |
| 778.028          | Irrigation NZ                   | 1      | 5       | Policy 5.2.17 | Accept         |
| 1201.034         | Trustpower Limited              | 1      | 5       | Policy 5.2.17 | Accept         |
| 425.042          | Federated Farmers               | 1      | 5       | Policy 5.2.17 | Reject         |
| 769.018          | Horticulture NZ                 | 1      | 5       | Policy 5.2.17 | Reject         |
| 501.001          | Ngāti Kuia                      | 1      | 5       | Policy 5.2.18 | Accept         |
| 479.024          | DOC                             | 1      | 5       | Policy 5.2.18 | Accept         |
| 548.027          | AWUG                            | 1      | 5       | Policy 5.2.18 | Accept         |
| 715.030          | Forest and Bird                 | 1      | 5       | Policy 5.2.18 | Accept         |
| 778.029          | Irrigation NZ                   | 1      | 5       | Policy 5.2.18 | Accept         |
| 1201.036         | Trustpower Limited              | 1      | 5       | Policy 5.2.18 | Accept         |
| 509.049          | Fish and Game                   | 1      | 5       | Policy 5.2.18 | Reject         |
| 962.033          | MFIA                            | 1      | 5       | Policy 5.2.18 | Reject         |
| 990.168          | Nelson Forests Limited          | 1      | 5       | Policy 5.2.18 | Reject         |
| 1189.044         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.18 | Reject         |
| 479.025          | DOC                             | 1      | 5       | Policy 5.2.19 | Accept         |
| 548.028          | AWUG                            | 1      | 5       | Policy 5.2.19 | Accept         |
| 715.031          | Forest and Bird                 | 1      | 5       | Policy 5.2.19 | Accept         |
| 778.030          | Irrigation NZ                   | 1      | 5       | Policy 5.2.19 | Accept         |
| 873.011          | KiwiRail                        | 1      | 5       | Policy 5.2.19 | Accept         |
| 1201.037         | Trustpower Limited              | 1      | 5       | Policy 5.2.19 | Accept         |
| 166.022          | Ngāti Toa                       | 1      | 5       | Policy 5.2.19 | Reject         |
| 166.062          | Ngāti Toa                       | 1      | 5       | Policy 5.2.19 | Reject         |
| 501.008          | Ngāti Kuia                      | 1      | 5       | Policy 5.2.19 | Reject         |
| 1189.045         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.19 | Reject         |
| 509.050          | Fish and Game                   | 1      | 5       | Policy 5.2.19 | Reject         |
| 962.034          | MFIA                            | 1      | 5       | Policy 5.2.19 | Accept         |
| 990.169          | Nelson Forests Limited          | 1      | 5       | Policy 5.2.19 | Reject         |

| Submission Point | Submitter                       | Volume | Chapter | Provision     | Recommendation |
|------------------|---------------------------------|--------|---------|---------------|----------------|
| 425.043          | Federated Farmers               | 1      | 5       | Policy 5.2.20 | Accept         |
| 454.129          | K Loe                           | 1      | 5       | Policy 5.2.20 | Accept         |
| 455.018          | J Hickman                       | 1      | 5       | Policy 5.2.20 | Accept         |
| 456.018          | G Mehlhopt                      | 1      | 5       | Policy 5.2.20 | Accept         |
| 479.026          | DOC                             | 1      | 5       | Policy 5.2.20 | Accept         |
| 509.051          | Fish and Game                   | 1      | 5       | Policy 5.2.20 | Accept         |
| 548.029          | AWUG                            | 1      | 5       | Policy 5.2.20 | Accept         |
| 676.026          | Dairy NZ                        | 1      | 5       | Policy 5.2.20 | Accept         |
| 715.032          | Forest and Bird                 | 1      | 5       | Policy 5.2.20 | Accept         |
| 778.031          | Irrigation NZ                   | 1      | 5       | Policy 5.2.20 | Accept         |
| 1039.020         | Pernod Ricard                   | 1      | 5       | Policy 5.2.20 | Accept         |
| 255.001          | W Lissaman                      | 1      | 5       | Policy 5.2.20 | Reject         |
| 348.004          | M Chapman                       | 1      | 5       | Policy 5.2.20 | Reject         |
| 712.001          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.2.20 | Reject         |
| 1189.046         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.20 | Reject         |
| 962.035          | MFIA                            | 1      | 5       | Policy 5.2.20 | Reject         |
| 990.170          | Nelson Forests Limited          | 1      | 5       | Policy 5.2.20 | Reject         |
| 454.130          | K Loe                           | 1      | 5       | Policy 5.2.21 | Accept in part |
| 479.027          | DOC                             | 1      | 5       | Policy 5.2.21 | Accept in part |
| 548.030          | AWUG                            | 1      | 5       | Policy 5.2.21 | Accept in part |
| 715.033          | Forest and Bird                 | 1      | 5       | Policy 5.2.21 | Accept in part |
| 778.032          | Irrigation NZ                   | 1      | 5       | Policy 5.2.21 | Accept in part |
| 166.021          | Ngāti Toa                       | 1      | 5       | Policy 5.2.21 | Accept         |
| 166.061          | Ngāti Toa                       | 1      | 5       | Policy 5.2.21 | Accept         |
| 1189.047         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.20 | Reject         |
| 425.044          | Federated Farmers               | 1      | 5       | Policy 5.2.21 | Accept in part |
| 501.009          | Ngāti Kuia                      | 1      | 5       | Policy 5.2.21 | Accept in part |
| 509.052          | Fish and Game                   | 1      | 5       | Policy 5.2.21 | Reject         |
| 698.021          | EDS                             | 1      | 5       | Policy 5.2.21 | Reject         |

| Submission Point | Submitter                       | Volume | Chapter | Provision                                   | Recommendation                        |
|------------------|---------------------------------|--------|---------|---|---------------------------------------|
| 712.002          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.2.21                               | Reject                                |
| 994.001          | NZ Fish Passage Advisory Group  | 1      | 5       | Policy 5.2.21 (lodged against Policy 5.2.4) | None – outside scope of hearing topic |
| 994.002          | NZ Fish Passage Advisory Group  | 1      | 5       | Policy 5.2.21                               | None – outside scope of hearing topic |
| 1039.021         | Pernod Ricard                   | 1      | 5       | Policy 5.2.21                               | Reject                                |
| 1201.038         | Trustpower Limited              | 1      | 5       | Policy 5.2.21                               | Reject                                |
| 454.131          | K Loe                           | 1      | 5       | Policy 5.2.22                               | Accept in part                        |
| 548.031          | AWUG                            | 1      | 5       | Policy 5.2.22                               | Accept in part                        |
| 715.034          | Forest and Bird                 | 1      | 5       | Policy 5.2.22                               | Accept in part                        |
| 1039.022         | Pernod Ricard                   | 1      | 5       | Policy 5.2.22                               | Accept in part                        |
| 501.010          | Ngāti Kuia                      | 1      | 5       | Policy 5.2.22                               | Accept in part                        |
| 1189.048         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.22                               | Reject                                |
| 509.053          | Fish and Game                   | 1      | 5       | Policy 5.2.22                               | Reject                                |
| 1201.039         | Trustpower Limited              | 1      | 5       | Policy 5.2.22                               | None pending hearing evidence         |
| 778.033          | Irrigation NZ                   | 1      | 5       | Policy 5.2.22                               | Reject                                |
| 425.045          | Federated Farmers               | 1      | 5       | Policy 5.2.22                               | Reject                                |
| 712.003          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.2.22                               | Reject                                |
| 509.054          | Fish and Game                   | 1      | 5       | Policy 5.2.23                               | Accept                                |
| 548.032          | AWUG                            | 1      | 5       | Policy 5.2.23                               | Accept                                |
| 715.035          | Forest and Bird                 | 1      | 5       | Policy 5.2.23                               | Accept                                |
| 778.034          | Irrigation NZ                   | 1      | 5       | Policy 5.2.23                               | Accept                                |
| 1201.040         | Trustpower Limited              | 1      | 5       | Policy 5.2.23                               | Accept                                |
| 769.019          | Horticulture NZ                 | 1      | 5       | Policy 5.2.23                               | Reject                                |
| 1251.009         | Fonterra                        | 1      | 5       | Policy 5.2.23                               | Reject                                |
| 479.028          | DOC                             | 1      | 5       | Policy 5.2.24                               | Accept                                |
| 509.055          | Fish and Game                   | 1      | 5       | Policy 5.2.24                               | Accept                                |
| 548.033          | AWUG                            | 1      | 5       | Policy 5.2.24                               | Accept                                |
| 715.036          | Forest and Bird                 | 1      | 5       | Policy 5.2.24                               | Accept                                |
| 778.035          | Irrigation NZ                   | 1      | 5       | Policy 5.2.24                               | Accept                                |

| Submission Point | Submitter                       | Volume | Chapter | Provision                             | Recommendation                        |
|------------------|---------------------------------|--------|---------|---------------------------------------|---------------------------------------|
| 1124.032         | S MacKenzie                     | 1      | 5       | Policy 5.2.24                         | Accept                                |
| 1189.049         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.24                         | Accept                                |
| 1201.041         | Trustpower Limited              | 1      | 5       | Policy 5.2.24                         | Accept                                |
| 1039.023         | Pernod Ricard                   | 1      | 5       | Policy 5.2.24                         | Reject                                |
| 1251.010         | Fonterra                        | 1      | 5       | Policy 5.2.24                         | Reject                                |
| 484.074          | Clintondale                     | 1      | 5       | Policy 5.2.24 (lodged against Appx 6) | Reject                                |
| 479.029          | DOC                             | 1      | 5       | Policy 5.2.25                         | Accept                                |
| 501.011          | Ngāti Kuia                      | 1      | 5       | Policy 5.2.25                         | Accept                                |
| 715.037          | Forest and Bird                 | 1      | 5       | Policy 5.2.25                         | Accept                                |
| 1124.033         | S MacKenzie                     | 1      | 5       | Policy 5.2.25                         | Accept                                |
| 1189.050         | Ngāi Tahu                       | 1      | 5       | Policy 5.2.25                         | Accept                                |
| 509.056          | Fish and Game                   | 1      | 5       | Policy 5.2.25                         | Reject                                |
| 548.034          | AWUG                            | 1      | 5       | Policy 5.2.25                         | None – information sought, not relief |
| 778.036          | Irrigation NZ                   | 1      | 5       | Policy 5.2.25                         | Reject                                |
| 1039.024         | Pernod Ricard                   | 1      | 5       | Policy 5.2.25                         | Reject                                |
| 1087.001         | Rai Mussels Limited             | 1      | 5       | Policy 5.2.25                         | Reject                                |
| 1251.011         | Fonterra                        | 1      | 5       | Policy 5.2.25                         | Reject                                |
| 425.046          | Federated Farmers               | 1      | 5       | Policy 5.2.25                         | Reject                                |
| 479.030          | DOC                             | 1      | 5       | Policy 5.3.1                          | Accept                                |
| 712.037          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.3.1                          | Accept                                |
| 715.040          | Forest and Bird                 | 1      | 5       | Policy 5.3.1                          | Accept                                |
| 962.015          | MFIA                            | 1      | 5       | Policy 5.3.1                          | Accept                                |
| 998.002          | NZ Pork                         | 1      | 5       | Policy 5.3.1                          | Accept                                |
| 1238.009         | Windermere Forests Limited      | 1      | 5       | Policy 5.3.1                          | Accept                                |
| 501.012          | Ngāti Kuia                      | 1      | 5       | Policy 5.3.1                          | Reject                                |
| 1186.039         | Te Ātiawa                       | 1      | 5       | Policy 5.3.1                          | None at this time                     |
| 698.022          | EDS                             | 1      | 5       | Policy 5.3.1                          | Reject                                |
| 166.006          | Ngāti Toa                       | 1      | 5       | Policy 5.3.1                          | Reject                                |
| 280.013          | NMDHB                           | 1      | 5       | Policy 5.3.1                          | Reject                                |

| Submission Point | Submitter                       | Volume | Chapter | Provision                                   | Recommendation                   |
|------------------|---------------------------------|--------|---------|---|----------------------------------|
| 1201.049         | Trustpower Limited              | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 509.058          | Fish and Game                   | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 715.039          | Forest and Bird                 | 1      | 5       | Policy 5.3.1                                | Accept                           |
| 993.005          | FENZ                            | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 778.037          | Irrigation NZ                   | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 484.009          | Clintondale                     | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 907.002          | Levide Capital Limited          | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 1039.026         | Pernod Ricard                   | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 1087.002         | Rai Mussels Limited             | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 769.020          | Horticulture NZ                 | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 992.008          | NZDF                            | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 1251.012         | Fonterra                        | 1      | 5       | Policy 5.3.1                                | Reject                           |
| 548.035          | AWUG                            | 1      | 5       | Policy 5.3.1                                | None - no specific relief sought |
| 425.047          | Federated Farmers               | 1      | 5       | Policy 5.3.1                                | None - no specific relief sought |
| 676.027          | Dairy NZ                        | 1      | 5       | Policy 5.3.1                                | None - no specific relief sought |
| 811.002          | J Kerry                         | 1      | 5       | Policy 5.3.1 (lodged against Chapter 5)     | Reject                           |
| 324.001          | R Parkes                        | 1      | 5       | Policy 5.3.1 (lodged against Objective 5.2) | None - no specific relief sought |
| 509.059          | Fish and Game                   | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 548.036          | AWUG                            | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 676.028          | Dairy NZ                        | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 715.041          | Forest and Bird                 | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 778.038          | Irrigation NZ                   | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 962.016          | MFIA                            | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 1039.027         | Pernod Ricard                   | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 1238.010         | Windermere Forests Limited      | 1      | 5       | Policy 5.3.2                                | Accept                           |
| 501.013          | Ngāti Kuia                      | 1      | 5       | Policy 5.3.3                                | Accept                           |
| 712.062          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.3.3                                | Accept                           |
| 1124.035         | S MacKenzie                     | 1      | 5       | Policy 5.3.3                                | Accept                           |
| 715.042          | Forest and Bird                 | 1      | 5       | Policy 5.3.3                                | Accept                           |

| Submission Point | Submitter                       | Volume | Chapter | Provision    | Recommendation                               |
|------------------|---------------------------------|--------|---------|--------------|--|
| 778.039          | Irrigation NZ                   | 1      | 5       | Policy 5.3.3 | Accept                                       |
| 962.017          | MFIA                            | 1      | 5       | Policy 5.3.3 | Accept                                       |
| 1039.028         | Pernod Ricard                   | 1      | 5       | Policy 5.3.3 | Accept                                       |
| 1238.011         | Windermere Forests Limited      | 1      | 5       | Policy 5.3.3 | Accept                                       |
| 425.048          | Federated Farmers               | 1      | 5       | Policy 5.3.3 | Reject                                       |
| 509.060          | Fish and Game                   | 1      | 5       | Policy 5.3.3 | Reject                                       |
| 1201.050         | Trustpower Limited              | 1      | 5       | Policy 5.3.3 | Accept in part (but relates to Policy 5.2.4) |
| 479.031          | DOC                             | 1      | 5       | Policy 5.3.3 | Reject                                       |
| 548.037          | AWUG                            | 1      | 5       | Policy 5.3.3 | Reject                                       |
| 698.023          | EDS                             | 1      | 5       | Policy 5.3.3 | Reject                                       |
| 548.038          | AWUG                            | 1      | 5       | Policy 5.3.4 | Accept                                       |
| 712.063          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.3.4 | Accept                                       |
| 715.043          | Forest and Bird                 | 1      | 5       | Policy 5.3.4 | Accept                                       |
| 962.018          | MFIA                            | 1      | 5       | Policy 5.3.4 | Accept                                       |
| 1238.012         | Windermere Forests Limited      | 1      | 5       | Policy 5.3.4 | Accept                                       |
| 280.014          | NMDHB                           | 1      | 5       | Policy 5.3.4 | Accept                                       |
| 1087.003         | Rai Mussels Limited             | 1      | 5       | Policy 5.3.4 | Reject                                       |
| 425.049          | Federated Farmers               | 1      | 5       | Policy 5.3.4 | Reject                                       |
| 907.003          | Levide Capital Limited          | 1      | 5       | Policy 5.3.4 | Reject                                       |
| 509.061          | Fish and Game                   | 1      | 5       | Policy 5.3.4 | Reject                                       |
| 778.040          | Irrigation NZ                   | 1      | 5       | Policy 5.3.4 | Reject                                       |
| 698.024          | EDS                             | 1      | 5       | Policy 5.3.4 | Reject                                       |
| 425.051          | Federated Farmers               | 1      | 5       | Policy 5.3.5 | Accept                                       |
| 431.007          | Wine Marlborough                | 1      | 5       | Policy 5.3.5 | Accept                                       |
| 457.007          | Accolade                        | 1      | 5       | Policy 5.3.5 | Accept                                       |
| 473.006          | Delegat Limited                 | 1      | 5       | Policy 5.3.5 | Accept                                       |
| 479.032          | DOC                             | 1      | 5       | Policy 5.3.5 | Accept                                       |
| 484.010          | Clintondale                     | 1      | 5       | Policy 5.3.5 | Accept                                       |
| 548.039          | AWUG                            | 1      | 5       | Policy 5.3.5 | Accept                                       |

| Submission Point | Submitter                       | Volume | Chapter | Provision    | Recommendation |
|------------------|---------------------------------|--------|---------|--------------|----------------|
| 631.008          | Constellation                   | 1      | 5       | Policy 5.3.5 | Accept         |
| 676.029          | Dairy NZ                        | 1      | 5       | Policy 5.3.5 | Accept         |
| 909.007          | Longfield Farm Limited          | 1      | 5       | Policy 5.3.5 | Accept         |
| 715.044          | Forest and Bird                 | 1      | 5       | Policy 5.3.5 | Accept         |
| 776.004          | Indevin Estates Limited         | 1      | 5       | Policy 5.3.5 | Accept         |
| 778.041          | Irrigation NZ                   | 1      | 5       | Policy 5.3.5 | Accept         |
| 873.012          | KiwiRail                        | 1      | 5       | Policy 5.3.5 | Accept         |
| 962.019          | MFIA                            | 1      | 5       | Policy 5.3.5 | Accept         |
| 993.006          | FENZ                            | 1      | 5       | Policy 5.3.5 | Accept         |
| 1218.007         | Villa Maria                     | 1      | 5       | Policy 5.3.5 | Accept         |
| 712.064          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.3.5 | Accept         |
| 1238.013         | Windermere Forests Limited      | 1      | 5       | Policy 5.3.5 | Accept         |
| 1242.008         | Yealands Estate Limited         | 1      | 5       | Policy 5.3.5 | Accept         |
| 1251.013         | Fonterra                        | 1      | 5       | Policy 5.3.5 | Accept         |
| 717.024          | Fulton Hogan                    | 1      | 5       | Policy 5.3.5 | Reject         |
| 1186.040         | Te Ātiawa                       | 1      | 5       | Policy 5.3.5 | Reject         |
| 509.062          | Fish and Game                   | 1      | 5       | Policy 5.3.5 | Reject         |
| 698.025          | EDS                             | 1      | 5       | Policy 5.3.5 | Reject         |
| 431.008          | Wine Marlborough                | 1      | 5       | Policy 5.3.6 | Accept         |
| 457.008          | Accolade                        | 1      | 5       | Policy 5.3.6 | Accept         |
| 473.007          | Delegat Limited                 | 1      | 5       | Policy 5.3.6 | Accept         |
| 484.011          | Clintondale                     | 1      | 5       | Policy 5.3.6 | Accept         |
| 548.040          | AWUG                            | 1      | 5       | Policy 5.3.6 | Accept         |
| 631.009          | Constellation                   | 1      | 5       | Policy 5.3.6 | Accept         |
| 676.030          | Dairy NZ                        | 1      | 5       | Policy 5.3.6 | Accept         |
| 909.008          | Longfield Farm Limited          | 1      | 5       | Policy 5.3.6 | Accept         |
| 715.045          | Forest and Bird                 | 1      | 5       | Policy 5.3.6 | Accept         |
| 776.005          | Indevin Estates Limited         | 1      | 5       | Policy 5.3.6 | Accept         |
| 778.042          | Irrigation NZ                   | 1      | 5       | Policy 5.3.6 | Accept         |

| Submission Point | Submitter                  | Volume | Chapter | Provision    | Recommendation |
|------------------|----------------------------|--------|---------|--------------|----------------|
| 1039.029         | Pernod Ricard              | 1      | 5       | Policy 5.3.6 | Accept         |
| 962.020          | MFIA                       | 1      | 5       | Policy 5.3.6 | Accept         |
| 1124.036         | S MacKenzie                | 1      | 5       | Policy 5.3.6 | Accept         |
| 1218.008         | Villa Maria                | 1      | 5       | Policy 5.3.6 | Accept         |
| 1238.014         | Windermere Forests Limited | 1      | 5       | Policy 5.3.6 | Accept         |
| 1242.009         | Yealands Estate Limited    | 1      | 5       | Policy 5.3.6 | Accept         |
| 501.014          | Ngāti Kuai                 | 1      | 5       | Policy 5.3.6 | Reject         |
| 1201.051         | Trustpower Limited         | 1      | 5       | Policy 5.3.6 | Reject         |
| 1251.014         | Fonterra                   | 1      | 5       | Policy 5.3.6 | Reject         |
| 425.050          | Federated Farmers          | 1      | 5       | Policy 5.3.6 | Reject         |
| 907.004          | Levide Capital Limited     | 1      | 5       | Policy 5.3.6 | Reject         |
| 425.052          | Federated Farmers          | 1      | 5       | Policy 5.3.7 | Accept         |
| 431.009          | Wine Marlborough           | 1      | 5       | Policy 5.3.7 | Accept         |
| 457.009          | Accolade                   | 1      | 5       | Policy 5.3.7 | Accept         |
| 473.008          | Delegat Limited            | 1      | 5       | Policy 5.3.7 | Accept         |
| 484.012          | Clintondale                | 1      | 5       | Policy 5.3.7 | Accept         |
| 509.063          | Fish and Game              | 1      | 5       | Policy 5.3.7 | Accept         |
| 548.041          | AWUG                       | 1      | 5       | Policy 5.3.7 | Accept         |
| 631.010          | Constellation              | 1      | 5       | Policy 5.3.7 | Accept         |
| 676.031          | Dairy NZ                   | 1      | 5       | Policy 5.3.7 | Accept         |
| 909.009          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.7 | Accept         |
| 715.046          | Forest and Bird            | 1      | 5       | Policy 5.3.7 | Accept         |
| 776.006          | Indevin Estates Limited    | 1      | 5       | Policy 5.3.7 | Accept         |
| 778.043          | Irrigation NZ              | 1      | 5       | Policy 5.3.7 | Accept         |
| 962.021          | MFIA                       | 1      | 5       | Policy 5.3.7 | Accept         |
| 962.037          | MFIA                       | 1      | 5       | Policy 5.3.7 | Accept         |
| 1124.037         | S MacKenzie                | 1      | 5       | Policy 5.3.7 | Accept         |
| 1218.009         | Villa Maria                | 1      | 5       | Policy 5.3.7 | Accept         |
| 1238.015         | Windermere Forests Limited | 1      | 5       | Policy 5.3.7 | Accept         |



| Submission Point | Submitter                  | Volume | Chapter | Provision    | Recommendation                   |
|------------------|----------------------------|--------|---------|--------------|----------------------------------|
| 1242.010         | Yealands Estate Limited    | 1      | 5       | Policy 5.3.7 | Accept                           |
| 1039.030         | Pernod Ricard              | 1      | 5       | Policy 5.3.7 | Reject                           |
| 769.021          | Horticulture NZ            | 1      | 5       | Policy 5.3.7 | Reject                           |
| 224.001          | W Crosse                   | 1      | 5       | Policy 5.3.7 | Reject                           |
| 908.004          | Lion                       | 1      | 5       | Policy 5.3.7 | Reject                           |
| 990.172          | Nelson Forests Limited     | 1      | 5       | Policy 5.3.7 | None – no specific relief sought |
| 431.010          | Wine Marlborough           | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 457.010          | Accolade                   | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 473.009          | Delegat Limited            | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 484.013          | Clintondale                | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 509.064          | Fish and Game              | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 548.042          | AWUG                       | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 631.011          | Constellation              | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 676.032          | Dairy NZ                   | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 909.010          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 715.047          | Forest and Bird            | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 776.007          | Indevin Estates Limited    | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 778.044          | Irrigation NZ              | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 962.022          | MFIA                       | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 1039.031         | Pernod Ricard              | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 1124.038         | S MacKenzie                | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 1218.010         | Villa Maria                | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 1238.016         | Windermere Forests Limited | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 1242.011         | Yealands Estate Limited    | 1      | 5       | Policy 5.3.8 | Accept in part                   |
| 224.002          | W Crosse                   | 1      | 5       | Policy 5.3.8 | Accept                           |
| 717.025          | Fulton Hogan Limited       | 1      | 5       | Policy 5.3.8 | Reject                           |
| 1090.007         | Ravensdown Limited         | 1      | 5       | Policy 5.3.8 | Reject                           |
| 1186.041         | Te Ātiawa                  | 1      | 5       | Policy 5.3.8 | Reject                           |
| 1201.052         | Trustpower Limited         | 1      | 5       | Policy 5.3.8 | Reject                           |

| Submission Point | Submitter                  | Volume | Chapter | Provision     | Recommendation                   |
|------------------|----------------------------|--------|---------|---------------|----------------------------------|
| 1251.015         | Fonterra                   | 1      | 5       | Policy 5.3.8  | Reject                           |
| 431.011          | Wine Marlborough           | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 457.011          | Accolade                   | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 473.010          | Delegat Limited            | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 548.043          | AWUG                       | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 676.033          | Dairy NZ                   | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 909.011          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 715.048          | Forest and Bird            | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 778.045          | Irrigation NZ              | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 962.023          | MFIA                       | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 1218.011         | Villa Maria                | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 1238.017         | Windermere Forests Limited | 1      | 5       | Policy 5.3.9  | Accept in part                   |
| 91.045           | MDC                        | 1      | 5       | Policy 5.3.9  | Accept                           |
| 91.263           | MDC                        | 1      | 5       | Policy 5.3.9  | Accept                           |
| 769.022          | Horticulture NZ            | 1      | 5       | Policy 5.3.9  | Reject                           |
| 484.014          | Clintondale                | 1      | 5       | Policy 5.3.9  | None – no specific relief sought |
| 221.001          | S Bradley                  | 1      | 5       | Policy 5.3.9  | Reject                           |
| 224.003          | W Crosse                   | 1      | 5       | Policy 5.3.9  | Reject                           |
| 1039.032         | Pernod Ricard              | 1      | 5       | Policy 5.3.9  | Reject                           |
| 509.065          | Fish and Game              | 1      | 5       | Policy 5.3.9  | Reject                           |
| 425.053          | Federated Farmers          | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 431.012          | Wine Marlborough           | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 457.012          | Accolade                   | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 462.048          | BRIL                       | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 473.011          | Delegat Limited            | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 484.015          | Clintondale                | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 548.044          | AWUG                       | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 631.012          | Constellation              | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |
| 676.034          | Dairy NZ                   | 1      | 5       | Policy 5.3.10 | None pending hearing evidence    |

| Submission Point | Submitter                  | Volume | Chapter | Provision     | Recommendation                |
|------------------|----------------------------|--------|---------|---------------|-------------------------------|
| 909.012          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 715.049          | Forest and Bird            | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 778.046          | Irrigation NZ              | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 962.024          | MFIA                       | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 1039.033         | Pernod Ricard              | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 1218.012         | Villa Maria                | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 1238.018         | Windermere Forests Limited | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 1242.012         | Yealands Estate Limited    | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 509.066          | Fish and Game              | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 698.026          | EDS                        | 1      | 5       | Policy 5.3.10 | None pending hearing evidence |
| 425.054          | Federated Farmers          | 1      | 5       | Policy 5.3.11 | Accept                        |
| 548.045          | AWUG                       | 1      | 5       | Policy 5.3.11 | Accept                        |
| 676.035          | Dairy NZ                   | 1      | 5       | Policy 5.3.11 | Accept                        |
| 715.050          | Forest and Bird            | 1      | 5       | Policy 5.3.11 | Accept                        |
| 1039.034         | Pernod Ricard              | 1      | 5       | Policy 5.3.11 | Accept                        |
| 1201.043         | Trustpower Limited         | 1      | 5       | Policy 5.3.11 | Accept                        |
| 1238.019         | Windermere Forests Limited | 1      | 5       | Policy 5.3.11 | Accept                        |
| 280.015          | NMDHB                      | 1      | 5       | Policy 5.3.11 | Reject                        |
| 992.009          | NZDF                       | 1      | 5       | Policy 5.3.11 | Reject                        |
| 778.047          | Irrigation NZ              | 1      | 5       | Policy 5.3.11 | Reject                        |
| 907.005          | Levide Capital Limited     | 1      | 5       | Policy 5.3.11 | Reject                        |
| 509.067          | Fish and Game              | 1      | 5       | Policy 5.3.11 | Reject                        |
| 425.053          | Federated Farmers          | 1      | 5       | Policy 5.3.12 | Accept                        |
| 431.013          | Wine Marlborough           | 1      | 5       | Policy 5.3.12 | Accept                        |
| 457.013          | Accolade                   | 1      | 5       | Policy 5.3.12 | Accept                        |
| 462.049          | BRIL                       | 1      | 5       | Policy 5.3.12 | Accept                        |
| 473.012          | Delegat Limited            | 1      | 5       | Policy 5.3.12 | Accept                        |
| 484.016          | Clintondale                | 1      | 5       | Policy 5.3.12 | Accept                        |
| 992.010          | NZDF                       | 1      | 5       | Policy 5.3.12 | Accept                        |

| Submission Point | Submitter                  | Volume | Chapter | Provision     | Recommendation |
|------------------|----------------------------|--------|---------|---------------|----------------|
| 631.013          | Constellation              | 1      | 5       | Policy 5.3.12 | Accept         |
| 909.013          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.12 | Accept         |
| 715.051          | Forest and Bird            | 1      | 5       | Policy 5.3.12 | Accept         |
| 778.048          | Irrigation NZ              | 1      | 5       | Policy 5.3.12 | Accept         |
| 962.026          | MFIA                       | 1      | 5       | Policy 5.3.12 | Accept         |
| 1039.035         | Pernod Ricard              | 1      | 5       | Policy 5.3.12 | Accept         |
| 1218.013         | Villa Maria                | 1      | 5       | Policy 5.3.12 | Accept         |
| 1238.020         | Windermere Forests Limited | 1      | 5       | Policy 5.3.12 | Accept         |
| 1242.013         | Yealands Estate Limited    | 1      | 5       | Policy 5.3.12 | Accept         |
| 425.055          | Federated Farmers          | 1      | 5       | Policy 5.3.12 | Reject         |
| 1002.020         | NZTA                       | 1      | 5       | Policy 5.3.12 | Reject         |
| 1238.021         | Windermere Forests Limited | 1      | 5       | Policy 5.3.13 | Accept         |
| 715.052          | Forest and Bird            | 1      | 5       | Policy 5.3.13 | Accept         |
| 769.023          | Horticulture NZ            | 1      | 5       | Policy 5.3.13 | Accept         |
| 962.027          | MFIA                       | 1      | 5       | Policy 5.3.13 | Accept         |
| 778.049          | Irrigation NZ              | 1      | 5       | Policy 5.3.13 | Accept         |
| 1039.036         | Pernod Ricard              | 1      | 5       | Policy 5.3.13 | Accept         |
| 717.026          | Fulton Hogan               | 1      | 5       | Policy 5.3.13 | Reject         |
| 992.011          | NZDF                       | 1      | 5       | Policy 5.3.13 | Reject         |
| 431.014          | Wine Marlborough           | 1      | 5       | Policy 5.3.14 | Accept in part |
| 457.014          | Accolade                   | 1      | 5       | Policy 5.3.14 | Accept in part |
| 462.050          | BRIL                       | 1      | 5       | Policy 5.3.14 | Accept in part |
| 473.013          | Delegat Limited            | 1      | 5       | Policy 5.3.14 | Accept in part |
| 484.017          | Clintondale                | 1      | 5       | Policy 5.3.14 | Accept in part |
| 548.046          | AWUG                       | 1      | 5       | Policy 5.3.14 | Accept in part |
| 631.014          | Constellation              | 1      | 5       | Policy 5.3.14 | Accept in part |
| 909.014          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.14 | Accept in part |
| 715.053          | Forest and Bird            | 1      | 5       | Policy 5.3.14 | Accept in part |
| 776.008          | Indevin Estates Limited    | 1      | 5       | Policy 5.3.14 | Accept in part |

| Submission Point | Submitter                       | Volume | Chapter | Provision     | Recommendation |
|------------------|---------------------------------|--------|---------|---------------|----------------|
| 962.028          | MFIA                            | 1      | 5       | Policy 5.3.14 | Accept in part |
| 1039.037         | Pernod Ricard                   | 1      | 5       | Policy 5.3.14 | Accept in part |
| 1218.014         | Villa Maria                     | 1      | 5       | Policy 5.3.14 | Accept in part |
| 1238.022         | Windermere Forests Limited      | 1      | 5       | Policy 5.3.14 | Accept in part |
| 1242.014         | Yealands Estate Limited         | 1      | 5       | Policy 5.3.14 | Accept in part |
| 166.007          | Ngāti Toa                       | 1      | 5       | Policy 5.3.14 | Reject         |
| 1201.053         | Trustpower Limited              | 1      | 5       | Policy 5.3.14 | Accept in part |
| 698.027          | EDS                             | 1      | 5       | Policy 5.3.14 | Reject         |
| 1189.051         | Ngāi Tahu                       | 1      | 5       | Policy 5.3.14 | Reject         |
| 1186.042         | Te Ātiawa                       | 1      | 5       | Policy 5.3.14 | Reject         |
| 509.068          | Fish and Game                   | 1      | 5       | Policy 5.3.14 | Reject         |
| 717.027          | Fulton Hogan                    | 1      | 5       | Policy 5.3.14 | Reject         |
| 193.002          | S James                         | 1      | 5       | Policy 5.3.14 | Reject         |
| 425.056          | Federated Farmers               | 1      | 5       | Policy 5.3.14 | Reject         |
| 778.050          | Irrigation NZ                   | 1      | 5       | Policy 5.3.14 | Reject         |
| 676.036          | Dairy NZ                        | 1      | 5       | Policy 5.3.14 | Reject         |
| 1251.092         | Fonterra                        | 1      | 5       | Policy 5.3.14 | Reject         |
| 992.012          | NZDF                            | 1      | 5       | Policy 5.3.14 | Reject         |
| 431.015          | Wine Marlborough                | 1      | 5       | Policy 5.3.15 | Accept in part |
| 457.015          | Accolade                        | 1      | 5       | Policy 5.3.15 | Accept in part |
| 473.033          | DOC                             | 1      | 5       | Policy 5.3.15 | Accept in part |
| 473.014          | Delegat Limited                 | 1      | 5       | Policy 5.3.15 | Accept in part |
| 484.018          | Clintondale                     | 1      | 5       | Policy 5.3.15 | Accept in part |
| 509.070          | Fish and Game                   | 1      | 5       | Policy 5.3.15 | Accept in part |
| 548.047          | AWUG                            | 1      | 5       | Policy 5.3.15 | Accept in part |
| 676.037          | Dairy NZ                        | 1      | 5       | Policy 5.3.15 | Accept in part |
| 688.019          | J and J Hellstrom               | 1      | 5       | Policy 5.3.15 | Accept in part |
| 712.065          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.3.15 | Accept in part |
| 778.051          | Irrigation NZ                   | 1      | 5       | Policy 5.3.15 | Accept in part |

| Submission Point | Submitter                  | Volume | Chapter | Provision                                    | Recommendation |
|------------------|----------------------------|--------|---------|--|----------------|
| 909.015          | Longfield Farm Limited     | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 715.054          | Forest and Bird            | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 776.009          | Indevin Estates Limited    | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 1189.052         | Ngāi Tahu                  | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 1039.038         | Pernod Ricard              | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 1218.015         | Villa Maria                | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 1201.044         | Trustpower Limited         | 1      | 5       | Policy 5.3.15                                | Accept in part |
| 990.167          | Nelson Forest Limited      | 1      | 5       | Policy 5.3.15 (lodged against Objective 5.1) | Reject         |
| 990.171          | Nelson Forest Limited      | 1      | 5       | Policy 5.3.15 (lodged against Issue 5C)      | Reject         |
| 990.173          | Nelson Forest Limited      | 1      | 5       | Policy 5.3.15                                | Reject         |
| 440.001          | I Esson                    | 1      | 5       | Policy 5.3.15                                | Accept         |
| 973.005          | MPI                        | 1      | 5       | Policy 5.3.15                                | Accept         |
| 962.029          | MFIA                       | 1      | 5       | Policy 5.3.15                                | Reject         |
| 962.038          | MFIA                       | 1      | 5       | Policy 5.3.15                                | Reject         |
| 962.199          | MFIA                       | 1      | 5       | Policy 5.3.15                                | Reject         |
| 1193.012         | The Environment Centre     | 1      | 5       | Policy 5.3.15                                | Reject         |
| 1017.008         | P Gilbert                  | 1      | 5       | Policy 5.3.15                                | Reject         |
| 91.043           | MDC                        | 1      | 5       | Policy 5.3.15                                | Accept         |
| 1238.023         | Windermere Forests Limited | 1      | 5       | Policy 5.3.15                                | Reject         |
| 165.001          | N Webby                    | 1      | 5       | Policy 5.3.15                                | Reject         |
| 425.057          | Federated Farmers          | 1      | 5       | Policy 5.3.15                                | Reject         |
| 472.003          | ME Taylor Limited          | 1      | 5       | Policy 5.3.15                                | Reject         |
| 431.016          | Wine Marlborough           | 1      | 5       | Policy 5.3.16                                | Accept in part |
| 457.016          | Accolade                   | 1      | 5       | Policy 5.3.16                                | Accept in part |
| 473.034          | DOC                        | 1      | 5       | Policy 5.3.16                                | Accept in part |
| 473.015          | Delegat Limited            | 1      | 5       | Policy 5.3.16                                | Accept in part |
| 484.019          | Clintondale                | 1      | 5       | Policy 5.3.16                                | Accept in part |
| 548.048          | AWUG                       | 1      | 5       | Policy 5.3.16                                | Accept in part |
| 676.038          | Dairy NZ                   | 1      | 5       | Policy 5.3.16                                | Accept in part |

| Submission Point | Submitter               | Volume | Chapter | Provision     | Recommendation |
|------------------|-------------------------|--------|---------|---------------|----------------|
| 688.020          | J and J Hellstrom       | 1      | 5       | Policy 5.3.16 | Accept in part |
| 778.052          | Irrigation NZ           | 1      | 5       | Policy 5.3.16 | Accept in part |
| 909.016          | Longfield Farm Limited  | 1      | 5       | Policy 5.3.16 | Accept in part |
| 776.010          | Indevin Estates Limited | 1      | 5       | Policy 5.3.16 | Accept in part |
| 1189.053         | Ngāi Tahu               | 1      | 5       | Policy 5.3.16 | Accept in part |
| 1039.039         | Pernod Ricard           | 1      | 5       | Policy 5.3.16 | Accept in part |
| 1218.016         | Villa Maria             | 1      | 5       | Policy 5.3.16 | Accept in part |
| 91.044           | MDC                     | 1      | 5       | Policy 5.3.16 | Accept         |
| 509.071          | Fish and Game           | 1      | 5       | Policy 5.3.16 | Reject         |
| 715.055          | Forest and Bird         | 1      | 5       | Policy 5.3.16 | Reject         |
| 1193.013         | The Environment Centre  | 1      | 5       | Policy 5.3.16 | Reject         |
| 973.006          | MPI                     | 1      | 5       | Policy 5.3.16 | Reject         |
| 501.015          | Ngāti Kuia              | 1      | 5       | Policy 5.3.16 | Reject         |
| 249.002          | J Jones                 | 1      | 5       | Policy 5.4.1  | Accept         |
| 509.074          | Fish and Game           | 1      | 5       | Policy 5.4.1  | Accept         |
| 548.049          | AWUG                    | 1      | 5       | Policy 5.4.1  | Accept         |
| 676.041          | Dairy NZ                | 1      | 5       | Policy 5.4.1  | Accept         |
| 778.053          | Irrigation NZ           | 1      | 5       | Policy 5.4.1  | Accept         |
| 907.007          | Levide Capital Limited  | 1      | 5       | Policy 5.4.1  | Accept         |
| 425.058          | Federated Farmers       | 1      | 5       | Policy 5.4.1  | Reject         |
| 688.175          | J and J Hellstrom       | 1      | 5       | Policy 5.4.1  | Reject         |
| 1039.041         | Pernod Ricard           | 1      | 5       | Policy 5.4.1  | Reject         |
| 1087.004         | Rai Mussels Limited     | 1      | 5       | Policy 5.4.1  | Reject         |
| 1251.016         | Fonterra                | 1      | 5       | Policy 5.4.1  | Reject         |
| 1201.054         | Trustpower Limited      | 1      | 5       | Policy 5.4.1  | Reject         |
| 717.028          | Fulton Hogan Limited    | 1      | 5       | Policy 5.4.1  | Reject         |
| 548.050          | AWUG                    | 1      | 5       | Policy 5.4.2  | Reject         |
| 778.054          | Irrigation NZ           | 1      | 5       | Policy 5.4.2  | Reject         |
| 1039.042         | Pernod Ricard           | 1      | 5       | Policy 5.4.2  | Accept         |

| Submission Point | Submitter               | Volume | Chapter | Provision    | Recommendation |
|------------------|-------------------------|--------|---------|--------------|----------------|
| 425.059          | Federated Farmers       | 1      | 5       | Policy 5.4.2 | Reject         |
| 509.075          | Fish and Game           | 1      | 5       | Policy 5.4.2 | Reject         |
| 1087.005         | Rai Mussels Limited     | 1      | 5       | Policy 5.4.2 | Reject         |
| 431.018          | Wine Marlborough        | 1      | 5       | Policy 5.4.3 | Accept         |
| 462.052          | BRIL                    | 1      | 5       | Policy 5.4.3 | Accept         |
| 509.076          | Fish and Game           | 1      | 5       | Policy 5.4.3 | Accept         |
| 473.016          | Delegat Limited         | 1      | 5       | Policy 5.4.3 | Accept         |
| 484.021          | Clintondale             | 1      | 5       | Policy 5.4.3 | Accept         |
| 548.051          | AWUG                    | 1      | 5       | Policy 5.4.3 | Accept         |
| 631.015          | Constellation           | 1      | 5       | Policy 5.4.3 | Accept         |
| 676.042          | Dairy NZ                | 1      | 5       | Policy 5.4.3 | Accept         |
| 907.008          | Levide Capital Limited  | 1      | 5       | Policy 5.4.3 | Accept         |
| 778.055          | Irrigation NZ           | 1      | 5       | Policy 5.4.3 | Accept         |
| 909.018          | Longfield Farm Limited  | 1      | 5       | Policy 5.4.3 | Accept         |
| 776.011          | Indevin Estates Limited | 1      | 5       | Policy 5.4.3 | Accept         |
| 1201.046         | Trustpower Limited      | 1      | 5       | Policy 5.4.3 | Accept         |
| 1039.043         | Pernod Ricard           | 1      | 5       | Policy 5.4.3 | Accept         |
| 1218.018         | Villa Maria             | 1      | 5       | Policy 5.4.3 | Accept         |
| 1242.015         | Yealands Estate Limited | 1      | 5       | Policy 5.4.3 | Accept         |
| 1186.043         | Te Ātiawa               | 1      | 5       | Policy 5.4.3 | Reject         |
| 717.029          | Fulton Hogan Limited    | 1      | 5       | Policy 5.4.3 | Reject         |
| 431.019          | Wine Marlborough        | 1      | 5       | Policy 5.4.4 | Accept         |
| 457.019          | Accolade                | 1      | 5       | Policy 5.4.4 | Accept         |
| 462.053          | BRIL                    | 1      | 5       | Policy 5.4.4 | Accept         |
| 479.035          | DOC                     | 1      | 5       | Policy 5.4.4 | Accept         |
| 473.017          | Delegat Limited         | 1      | 5       | Policy 5.4.4 | Accept         |
| 484.022          | Clintondale             | 1      | 5       | Policy 5.4.4 | Accept         |
| 548.052          | AWUG                    | 1      | 5       | Policy 5.4.4 | Accept         |
| 631.016          | Constellation           | 1      | 5       | Policy 5.4.4 | Accept         |



| Submission Point | Submitter               | Volume | Chapter | Provision                                   | Recommendation |
|------------------|-------------------------|--------|---------|---|----------------|
| 676.043          | Dairy NZ                | 1      | 5       | Policy 5.4.4                                | Accept         |
| 717.030          | Fulton Hogan Limited    | 1      | 5       | Policy 5.4.4                                | Accept         |
| 769.024          | Horticulture NZ         | 1      | 5       | Policy 5.4.4                                | Accept         |
| 907.009          | Levide Capital Limited  | 1      | 5       | Policy 5.4.4                                | Accept         |
| 778.056          | Irrigation NZ           | 1      | 5       | Policy 5.4.4                                | Accept         |
| 909.019          | Longfield Farm Limited  | 1      | 5       | Policy 5.4.4                                | Accept         |
| 776.012          | Indevin Estates Limited | 1      | 5       | Policy 5.4.4                                | Accept         |
| 1039.044         | Pernod Ricard           | 1      | 5       | Policy 5.4.4                                | Accept         |
| 1087.006         | Rai Mussels Limited     | 1      | 5       | Policy 5.4.4                                | Accept         |
| 1124.003         | S MacKenzie             | 1      | 5       | Policy 5.4.4                                | Accept         |
| 1218.019         | Villa Maria             | 1      | 5       | Policy 5.4.4                                | Accept         |
| 1242.016         | Yealands Estate Limited | 1      | 5       | Policy 5.4.4                                | Accept         |
| 272.001          | D Hulbert               | 1      | 5       | Policy 5.4.4                                | Reject         |
| 1251.017         | Fonterra                | 1      | 5       | Policy 5.4.4                                | Accept         |
| 425.061          | Federated Farmers       | 1      | 5       | Policy 5.4.4                                | Accept         |
| 425.446          | Federated Farmers       | 1      | 5       | Policy 5.4.4                                | Reject         |
| 688.021          | J and J Hellstrom       | 1      | 5       | Policy 5.4.4                                | None           |
| 1201.055         | Trustpower Limited      | 1      | 5       | Policy 5.4.4                                | Reject         |
| 214.001          | B Mclauchlan            | 1      | 5       | Policy 5.4.4                                | Reject         |
| 1017.009         | P Gilbert               | 1      | 5       | Policy 5.4.4                                | Reject         |
| 501.017          | Ngāti Kuia              | 1      | 5       | Policy 5.4.4                                | Reject         |
| 509.077          | Fish and Game           | 1      | 5       | Policy 5.4.4                                | Reject         |
| 1186.024         | Te Ātiawa               | 1      | 5       | Policy 5.4.4                                | Reject         |
| 1186.044         | Te Ātiawa               | 1      | 5       | Policy 5.4.4                                | Reject         |
| 1186.100         | Te Ātiawa               | 1      | 5       | Policy 5.4.4 (lodged against Policy 19.1.5) | Reject         |
| 1189.055         | Ngāi Tahu               | 1      | 5       | Policy 5.4.4                                | Reject         |
| 431.020          | Wine Marlborough        | 1      | 5       | Policy 5.4.5                                | Accept in part |
| 457.020          | Accolade                | 1      | 5       | Policy 5.4.5                                | Accept in part |
| 462.054          | BRIL                    | 1      | 5       | Policy 5.4.5                                | Accept in part |

| Submission Point | Submitter               | Volume | Chapter | Provision    | Recommendation |
|------------------|-------------------------|--------|---------|--------------|----------------|
| 479.036          | DOC                     | 1      | 5       | Policy 5.4.5 | Accept in part |
| 473.018          | Delegat Limited         | 1      | 5       | Policy 5.4.5 | Accept in part |
| 484.023          | Clintondale             | 1      | 5       | Policy 5.4.5 | Accept in part |
| 548.053          | AWUG                    | 1      | 5       | Policy 5.4.5 | Accept in part |
| 631.017          | Constellation           | 1      | 5       | Policy 5.4.5 | Accept in part |
| 676.044          | Dairy NZ                | 1      | 5       | Policy 5.4.5 | Accept in part |
| 907.010          | Levide Capital Limited  | 1      | 5       | Policy 5.4.5 | Accept in part |
| 961.002          | Chamber                 | 1      | 5       | Policy 5.4.5 | Accept in part |
| 778.057          | Irrigation NZ           | 1      | 5       | Policy 5.4.5 | Accept in part |
| 909.020          | Longfield Farm Limited  | 1      | 5       | Policy 5.4.5 | Accept in part |
| 776.013          | Indevin Estates Limited | 1      | 5       | Policy 5.4.5 | Accept in part |
| 1039.045         | Pernod Ricard           | 1      | 5       | Policy 5.4.5 | Accept in part |
| 1124.004         | S MacKenzie             | 1      | 5       | Policy 5.4.5 | Accept in part |
| 1218.020         | Villa Maria             | 1      | 5       | Policy 5.4.5 | Accept in part |
| 1242.017         | Yealands Estate Limited | 1      | 5       | Policy 5.4.5 | Accept in part |
| 91.046           | MDC                     | 1      | 5       | Policy 5.4.5 | Accept         |
| 425.060          | Federated Farmers       | 1      | 5       | Policy 5.4.5 | Reject         |
| 698.029          | EDS                     | 1      | 5       | Policy 5.4.5 | Reject         |
| 717.031          | Fulton Hogan Limited    | 1      | 5       | Policy 5.4.5 | Reject         |
| 1087.007         | Rai Mussels Limited     | 1      | 5       | Policy 5.4.5 | Reject         |
| 1201.056         | Trustpower Limited      | 1      | 5       | Policy 5.4.5 | Reject         |
| 501.018          | Ngāti Kuia              | 1      | 5       | Policy 5.4.5 | Reject         |
| 509.078          | Fish and Game           | 1      | 5       | Policy 5.4.5 | Reject         |
| 962.039          | MFIA                    | 1      | 5       | Policy 5.4.5 | Reject         |
| 990.174          | Nelson Forests Limited  | 1      | 5       | Policy 5.4.5 | Reject         |
| 1189.056         | Ngāi Tahu               | 1      | 5       | Policy 5.4.5 | Reject         |
| 431.021          | Wine Marlborough        | 1      | 5       | Policy 5.4.6 | Accept         |
| 457.021          | Accolade                | 1      | 5       | Policy 5.4.6 | Accept         |
| 484.024          | Clintondale             | 1      | 5       | Policy 5.4.6 | Accept         |

| Submission Point | Submitter              | Volume | Chapter | Provision    | Recommendation          |
|------------------|------------------------|--------|---------|--------------|-------------------------|
| 548.054          | AWUG                   | 1      | 5       | Policy 5.4.6 | Accept                  |
| 676.045          | Dairy NZ               | 1      | 5       | Policy 5.4.6 | Accept                  |
| 778.058          | Irrigation NZ          | 1      | 5       | Policy 5.4.6 | Accept                  |
| 909.021          | Longfield Farm Limited | 1      | 5       | Policy 5.4.6 | Accept                  |
| 1039.046         | Pernod Ricard          | 1      | 5       | Policy 5.4.6 | Accept                  |
| 1218.021         | Villa Maria            | 1      | 5       | Policy 5.4.6 | Accept                  |
| 509.079          | Fish and Game          | 1      | 5       | Policy 5.4.6 | Reject                  |
| 479.038          | DOC                    | 1      | 5       | Policy 5.5.1 | Accept                  |
| 509.082          | Fish and Game          | 1      | 5       | Policy 5.5.1 | Accept                  |
| 715.066          | Forest and Bird        | 1      | 5       | Policy 5.5.1 | Accept                  |
| 778.059          | Irrigation NZ          | 1      | 5       | Policy 5.5.1 | Accept                  |
| 769.025          | Horticulture NZ        | 1      | 5       | Policy 5.5.1 | Reject                  |
| 331.006          | P Neal                 | 1      | 5       | Policy 5.5.1 | None – no relief sought |
| 1039.048         | Pernod Ricard          | 1      | 5       | Policy 5.5.1 | None – no relief sought |
| 992.013          | NZDF                   | 1      | 5       | Policy 5.5.1 | None – no relief sought |
| 479.039          | DOC                    | 1      | 5       | Policy 5.5.2 | Accept                  |
| 509.083          | Fish and Game          | 1      | 5       | Policy 5.5.2 | Accept                  |
| 715.067          | Forest and Bird        | 1      | 5       | Policy 5.5.2 | Accept                  |
| 778.060          | Irrigation NZ          | 1      | 5       | Policy 5.5.2 | Accept                  |
| 425.062          | Federated Farmers      | 1      | 5       | Policy 5.5.2 | Reject                  |
| 1039.049         | Pernod Ricard          | 1      | 5       | Policy 5.5.2 | Reject                  |
| 717.032          | Fulton Hogan Limited   | 1      | 5       | Policy 5.5.2 | Reject                  |
| 331.005          | P Neal                 | 1      | 5       | Policy 5.5.2 | None – no relief sought |
| 479.040          | DOC                    | 1      | 5       | Policy 5.5.3 | Accept                  |
| 715.068          | Forest and Bird        | 1      | 5       | Policy 5.5.3 | Accept                  |
| 778.061          | Irrigation NZ          | 1      | 5       | Policy 5.5.3 | Accept                  |
| 425.063          | Federated Farmers      | 1      | 5       | Policy 5.5.3 | Reject                  |
| 509.084          | Fish and Game          | 1      | 5       | Policy 5.5.3 | Reject                  |
| 548.055          | AWUG                   | 1      | 5       | Policy 5.5.3 | Reject                  |

| Submission Point | Submitter       | Volume | Chapter | Provision    | Recommendation          |
|------------------|-----------------|--------|---------|--------------|-------------------------|
| 255.020          | W Lissaman      | 1      | 5       | Policy 5.5.3 | Reject                  |
| 331.004          | P Neal          | 1      | 5       | Policy 5.5.3 | None – no relief sought |
| 479.041          | DOC             | 1      | 5       | Policy 5.5.4 | Accept                  |
| 961.003          | Chamber         | 1      | 5       | Policy 5.5.4 | Accept                  |
| 715.069          | Forest and Bird | 1      | 5       | Policy 5.5.4 | Accept                  |
| 778.062          | Irrigation NZ   | 1      | 5       | Policy 5.5.4 | Accept                  |
| 5.001            | D Hulburt       | 1      | 5       | Policy 5.5.4 | Reject                  |
| 314.001          | D Hulburt       | 1      | 5       | Policy 5.5.4 | Reject                  |
| 314.002          | D Hulburt       | 1      | 5       | Policy 5.5.4 | Reject                  |
| 331.003          | P Neal          | 1      | 5       | Policy 5.5.4 | None – no relief sought |
| 509.085          | Fish and Game   | 1      | 5       | Policy 5.5.4 | Reject                  |
| 698.030          | EDS             | 1      | 5       | Policy 5.5.4 | Reject                  |
| 769.026          | Horticulture NZ | 1      | 5       | Policy 5.5.4 | Accept                  |
| 1039.050         | Pernod Ricard   | 1      | 5       | Policy 5.5.4 | Reject                  |
| 479.042          | DOC             | 1      | 5       | Policy 5.5.5 | Accept                  |
| 509.086          | Fish and Game   | 1      | 5       | Policy 5.5.5 | Accept                  |
| 715.070          | Forest and Bird | 1      | 5       | Policy 5.5.5 | Accept                  |
| 778.063          | Irrigation NZ   | 1      | 5       | Policy 5.5.5 | Accept                  |
| 5.002            | D Hulburt       | 1      | 5       | Policy 5.5.5 | Reject                  |
| 698.031          | EDS             | 1      | 5       | Policy 5.5.5 | Reject                  |
| 769.027          | Horticulture NZ | 1      | 5       | Policy 5.5.5 | Reject                  |
| 676.048          | Dairy NZ        | 1      | 5       | Policy 5.5.5 | Reject                  |
| 1039.051         | Pernod Ricard   | 1      | 5       | Policy 5.5.5 | Reject                  |
| 1218.060         | Villa Maria     | 1      | 5       | Policy 5.5.5 | Reject                  |
| 717.033          | Villa Maria     | 1      | 5       | Policy 5.5.5 | Reject                  |
| 479.044          | DOC             | 1      | 5       | Policy 5.6.1 | Accept                  |
| 509.089          | Fish and Game   | 1      | 5       | Policy 5.6.1 | Accept                  |
| 715.073          | Forest and Bird | 1      | 5       | Policy 5.6.1 | Accept                  |
| 778.064          | Irrigation NZ   | 1      | 5       | Policy 5.6.1 | Accept                  |

| Submission Point | Submitter                   | Volume | Chapter | Provision                                   | Recommendation          |
|------------------|-----------------------------|--------|---------|---|-------------------------|
| 1189.059         | Ngāi Tahu                   | 1      | 5       | Policy 5.6.1                                | Accept                  |
| 425.065          | Federated Farmers           | 1      | 5       | Policy 5.6.1                                | Reject                  |
| 1039.053         | Pernod Ricard               | 1      | 5       | Policy 5.6.1                                | Reject                  |
| 479.045          | DOC                         | 1      | 5       | Policy 5.6.2                                | Accept                  |
| 509.090          | Fish and Game               | 1      | 5       | Policy 5.6.2                                | Accept                  |
| 715.074          | Forest and Bird             | 1      | 5       | Policy 5.6.2                                | Accept                  |
| 778.065          | Irrigation NZ               | 1      | 5       | Policy 5.6.2                                | Accept                  |
| 338.001          | G Lowe                      | 1      | 5       | Policy 5.6.2 (lodged against Policy 5.3.1   | Accept                  |
| 338.002          | G Lowe                      | 1      | 5       | Policy 5.6.2 (lodged against Objective 5.3) | Accept                  |
| 338.003          | G Lowe                      | 1      | 5       | Policy 5.6.2 (lodged against Issue 5C)      | Accept                  |
| 338.005          | G Lowe                      | 1      | 5       | Policy 5.6.2                                | Accept                  |
| 249.003          | J Jones                     | 1      | 5       | Policy 5.6.2                                | Reject                  |
| 632.001          | Constellation               | 1      | 5       | Policy 5.6.2                                | Reject                  |
| 1039.054         | Pernod Ricard               | 1      | 5       | Policy 5.6.2                                | None – no relief sought |
| 509.093          | Fish and Game               | 1      | 5       | Policy 5.7.1                                | Accept                  |
| 548.056          | AWUG                        | 1      | 5       | Policy 5.7.1                                | Accept                  |
| 676.051          | Dairy NZ                    | 1      | 5       | Policy 5.7.1                                | Accept                  |
| 778.066          | Irrigation NZ               | 1      | 5       | Policy 5.7.1                                | Accept                  |
| 1189.061         | Ngāi Tahu                   | 1      | 5       | Policy 5.7.1                                | Reject                  |
| 425.066          | Federated Farmers           | 1      | 5       | Policy 5.7.1                                | Reject                  |
| 769.029          | Horticulture NZ             | 1      | 5       | Policy 5.7.1                                | Reject                  |
| 715.077          | Forest and Bird             | 1      | 5       | Policy 5.7.1                                | Reject                  |
| 961.005          | Chamber                     | 1      | 5       | Policy 5.7.1                                | None – no relief sought |
| 249.004          | J Jones                     | 1      | 5       | Policy 5.7.2                                | Accept in part          |
| 370.007          | K Saville-Smith and B James | 1      | 5       | Policy 5.7.2                                | Accept in part          |
| 425.067          | Federated Farmers           | 1      | 5       | Policy 5.7.2                                | Accept in part          |
| 431.023          | Wine Marlborough            | 1      | 5       | Policy 5.7.2                                | Accept in part          |
| 479.047          | DOC                         | 1      | 5       | Policy 5.7.2                                | Accept in part          |
| 631.018          | Constellation               | 1      | 5       | Policy 5.7.2                                | Accept in part          |

| Submission Point | Submitter                         | Volume | Chapter | Provision                                   | Recommendation |
|------------------|-----------------------------------|--------|---------|---|----------------|
| 676.052          | Dairy NZ                          | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 778.067          | Irrigation NZ                     | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1124.039         | S MacKenzie                       | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1242.018         | Yealands Estate Limited           | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 359.002          | WilkesRM Limited                  | 1      | 5       | Policy 5.7.2 (lodged against Objective 5.7) | Accept in part |
| 871.003          | Kerseley Vineyard Trust           | 1      | 5       | Policy 5.7.2 (lodged against Objective 5.7) | Accept in part |
| 321.001          | S & R Adams                       | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 359.001          | WilkesRM Limited                  | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 374.012          | Talley's Group Limited            | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 457.023          | Accolade                          | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 462.028          | BRIL                              | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 473.020          | Delegat Limited                   | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 548.057          | AWUG                              | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 717.034          | Fulton Hogan Limited              | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 776.015          | Indevin Estates Limited           | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 777.001          | Investavine Limited               | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 871.002          | Kerseley Vineyard Trust           | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 909.060          | Longfield Farm Limited            | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 910.001          | Lower Waihopai Irrigation Company | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 966.001          | Marlborough Research Centre Trust | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 970.004          | Middlehurst Station Limited       | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1159.001         | Spring Creek Vintners             | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1162.001         | T & S Jeffries and 11 Others      | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1218.061         | Villa Maria                       | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1237.001         | Willowgrove Dairies Limited       | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 431.070          | Wine Marlborough                  | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1039.056         | Pernod Ricard                     | 1      | 5       | Policy 5.7.2                                | Accept in part |
| 1189.062         | Ngāi Tahu                         | 1      | 5       | Policy 5.7.2                                | Reject         |

| Submission Point | Submitter                   | Volume | Chapter | Provision                                   | Recommendation                   |
|------------------|-----------------------------|--------|---------|---|----------------------------------|
| 197.004          | Giesen Wines Limited        | 1      | 5       | Policy 5.7.2 (lodged against Objective 5.7) | Reject                           |
| 197.001          | Giesen Wines Limited        | 1      | 5       | Policy 5.7.2 (lodged against Policy 5.3.7)  | Reject                           |
| 197.002          | Giesen Wines Limited        | 1      | 5       | Policy 5.7.2 (lodged against Policy 5.7.3)  | Reject                           |
| 197.003          | Giesen Wines Limited        | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 296.003          | Kilravock Trust – Vineyards | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 499.001          | J and M Van Hove            | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 715.078          | Forest and Bird             | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 698.033          | EDS                         | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 509.094          | Fish and Game               | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 769.030          | Horticulture NZ             | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 322.001          | D and M Downs-Woolley       | 1      | 5       | Policy 5.7.2                                | None – no specific relief sought |
| 484.026          | Clintondale                 | 1      | 5       | Policy 5.7.2                                | Reject                           |
| 273.003          | B James                     | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 425.068          | Federated Farmers           | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 431.024          | Wine Marlborough            | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 431.071          | Wine Marlborough            | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 479.048          | DOC                         | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 676.053          | Dairy NZ                    | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 778.068          | Irrigation NZ               | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 1124.040         | S MacKenzie                 | 1      | 5       | Policy 5.7.3                                | Accept                           |
| 288.004          | M Croad                     | 1      | 5       | Policy 5.7.3                                | None – no specific relief sought |
| 297.004          | Red Barn Vineyards          | 1      | 5       | Policy 5.7.3                                | None – no specific relief sought |
| 300.004          | Hawkswood Vineyard Limited  | 1      | 5       | Policy 5.7.3                                | None – no specific relief sought |
| 374.011          | Talley's Group Limited      | 1      | 5       | Policy 5.7.3                                | Accept in part                   |
| 717.035          | Fulton Hogan Limited        | 1      | 5       | Policy 5.7.3                                | Accept in part                   |
| 715.079          | Forest and Bird             | 1      | 5       | Policy 5.7.3                                | Reject                           |
| 698.034          | EDS                         | 1      | 5       | Policy 5.7.3                                | Reject                           |
| 769.031          | Horticulture NZ             | 1      | 5       | Policy 5.7.3                                | Reject                           |
| 509.095          | Fish and Game               | 1      | 5       | Policy 5.7.3                                | Reject                           |

| Submission Point | Submitter                         | Volume | Chapter | Provision    | Recommendation |
|------------------|-----------------------------------|--------|---------|--------------|----------------|
| 871.004          | Kerseley Vineyard Trust           | 1      | 5       | Policy 5.7.3 | Reject         |
| 359.003          | WilkesRM Limited                  | 1      | 5       | Policy 5.7.3 | Reject         |
| 457.024          | Accolade                          | 1      | 5       | Policy 5.7.3 | Reject         |
| 462.029          | BRIL                              | 1      | 5       | Policy 5.7.3 | Reject         |
| 473.021          | Delegat Limited                   | 1      | 5       | Policy 5.7.3 | Reject         |
| 548.058          | AWUG                              | 1      | 5       | Policy 5.7.3 | Reject         |
| 776.016          | Indevin Estates Limited           | 1      | 5       | Policy 5.7.3 | Reject         |
| 777.002          | Investavine Limited               | 1      | 5       | Policy 5.7.3 | Reject         |
| 909.061          | Longfield Farms Limited           | 1      | 5       | Policy 5.7.3 | Reject         |
| 966.002          | Marlborough Research Centre Trust | 1      | 5       | Policy 5.7.3 | Reject         |
| 970.005          | Middlehurst Station Limited       | 1      | 5       | Policy 5.7.3 | Reject         |
| 1159.002         | Spring Creek Vintners             | 1      | 5       | Policy 5.7.3 | Reject         |
| 1162.002         | T & S Jeffries et al              | 1      | 5       | Policy 5.7.3 | Reject         |
| 1218.062         | Villa Maria                       | 1      | 5       | Policy 5.7.3 | Reject         |
| 1237.002         | Willowgrove Dairies Limited       | 1      | 5       | Policy 5.7.3 | Reject         |
| 1039.057         | Pernod Ricard                     | 1      | 5       | Policy 5.7.3 | Reject         |
| 631.043          | Constellation                     | 1      | 5       | Policy 5.7.3 | Reject         |
| 1242.037         | Yealands Estate Limited           | 1      | 5       | Policy 5.7.3 | Reject         |
| 224.004          | W Crosse                          | 1      | 5       | Policy 5.7.3 | Reject         |
| 484.027          | Clintondale                       | 1      | 5       | Policy 5.7.3 | Reject         |
| 370.003          | K Saville-Smith and B James       | 1      | 5       | Policy 5.7.4 | Accept in part |
| 479.049          | DOC                               | 1      | 5       | Policy 5.7.4 | Accept in part |
| 548.059          | AWUG                              | 1      | 5       | Policy 5.7.4 | Accept in part |
| 676.054          | Dairy NZ                          | 1      | 5       | Policy 5.7.4 | Accept in part |
| 688.024          | J and J Hellstrom                 | 1      | 5       | Policy 5.7.4 | Accept in part |
| 1039.058         | Pernod Ricard                     | 1      | 5       | Policy 5.7.4 | Accept in part |
| 1189.063         | Ngāi Tahu                         | 1      | 5       | Policy 5.7.4 | Accept in part |
| 715.080          | Forest and Bird                   | 1      | 5       | Policy 5.7.4 | Reject         |
| 778.069          | Irrigation NZ                     | 1      | 5       | Policy 5.7.4 | Accept         |



| Submission Point | Submitter              | Volume | Chapter | Provision                                  | Recommendation          |
|------------------|------------------------|--------|---------|--|-------------------------|
| 425.069          | Federated Farmers      | 1      | 5       | Policy 5.7.4                               | Reject                  |
| 193.001          | S James                | 1      | 5       | Policy 5.7.4                               | Reject                  |
| 1004.003         | Oil Companies          | 1      | 5       | Policy 5.7.4                               | Reject                  |
| 322.002          | D and M Downs-Woolley  | 1      | 5       | Policy 5.7.4                               | Accept                  |
| 548.060          | AWUG                   | 1      | 5       | Policy 5.7.5                               | Accept                  |
| 778.070          | Irrigation NZ          | 1      | 5       | Policy 5.7.5                               | Accept                  |
| 1039.059         | Pernod Ricard          | 1      | 5       | Policy 5.7.5                               | Accept                  |
| 715.081          | Forest and Bird        | 1      | 5       | Policy 5.7.5                               | Reject                  |
| 907.012          | Levide Capital Limited | 1      | 5       | Policy 5.7.5                               | Reject                  |
| 961.006          | Chamber                | 1      | 5       | Policy 5.7.5                               | None – no relief sought |
| 425.070          | Federated Farmers      | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 548.061          | AWUG                   | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 676.055          | Dairy NZ               | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 769.032          | Horticulture NZ        | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 778.071          | Irrigation NZ          | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 1124.041         | S MacKenzie            | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 1189.064         | Ngāi Tahu              | 1      | 5       | Policy 5.7.6                               | Accept                  |
| 715.082          | Forest and Bird        | 1      | 5       | Policy 5.7.6                               | Reject                  |
| 1039.060         | Pernod Ricard          | 1      | 5       | Policy 5.7.6                               | Reject                  |
| 509.096          | Fish and Game          | 1      | 5       | Policy 5.7.6                               | Reject                  |
| 715.058          | Forest and Bird        | 1      | 5       | Policy 5.7.6 (lodged against Policy 5.4.1) | Reject                  |
| 715.059          | Forest and Bird        | 1      | 5       | Policy 5.7.6 (lodged against Policy 5.4.2) | Reject                  |
| 715.060          | Forest and Bird        | 1      | 5       | Policy 5.7.6 (lodged against Policy 5.4.3) | Reject                  |
| 715.061          | Forest and Bird        | 1      | 5       | Policy 5.7.6 (lodged against Policy 5.4.4) | Reject                  |
| 715.062          | Forest and Bird        | 1      | 5       | Policy 5.7.6 (lodged against Policy 5.4.5) | Reject                  |
| 715.063          | Forest and Bird        | 1      | 5       | Policy 5.7.6 (lodged against Policy 5.4.6) | Reject                  |
| 509.097          | Fish and Game          | 1      | 5       | Policy 5.7.7                               | Accept                  |
| 548.062          | AWUG                   | 1      | 5       | Policy 5.7.7                               | Accept                  |
| 676.056          | Dairy NZ               | 1      | 5       | Policy 5.7.7                               | Accept                  |

| Submission Point | Submitter                       | Volume | Chapter | Provision     | Recommendation |
|------------------|---------------------------------|--------|---------|---------------|----------------|
| 712.066          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.7.7  | Accept         |
| 715.083          | Forest and Bird                 | 1      | 5       | Policy 5.7.7  | Accept         |
| 1201.048         | Trustpower Limited              | 1      | 5       | Policy 5.7.7  | Accept         |
| 300.002          | Hawkswood Vineyard Limited      | 1      | 5       | Policy 5.7.7  | Reject         |
| 548.063          | AWUG                            | 1      | 5       | Policy 5.7.8  | Accept         |
| 676.057          | Dairy NZ                        | 1      | 5       | Policy 5.7.8  | Accept         |
| 778.072          | Irrigation NZ                   | 1      | 5       | Policy 5.7.8  | Accept         |
| 1189.065         | Ngāi Tahu                       | 1      | 5       | Policy 5.7.8  | Accept         |
| 715.084          | Forest and Bird                 | 1      | 5       | Policy 5.7.8  | Reject         |
| 631.044          | Constellation                   | 1      | 5       | Policy 5.7.8  | Reject         |
| 1242.038         | Yealands Estate Limited         | 1      | 5       | Policy 5.7.8  | Reject         |
| 769.033          | Horticulture NZ                 | 1      | 5       | Policy 5.7.8  | Reject         |
| 1039.061         | Pernod Ricard                   | 1      | 5       | Policy 5.7.8  | Reject         |
| 1124.005         | S MacKenzie                     | 1      | 5       | Policy 5.7.8  | Reject         |
| 1235.005         | Wairau Valley Residents         | 1      | 5       | Policy 5.7.8  | Reject         |
| 548.064          | AWUG                            | 1      | 5       | Policy 5.7.9  | Accept         |
| 778.073          | Irrigation NZ                   | 1      | 5       | Policy 5.7.9  | Accept         |
| 1039.062         | Pernod Ricard                   | 1      | 5       | Policy 5.7.9  | Accept         |
| 1124.006         | S MacKenzie                     | 1      | 5       | Policy 5.7.9  | Accept         |
| 715.085          | Forest and Bird                 | 1      | 5       | Policy 5.7.9  | Reject         |
| 769.034          | Horticulture NZ                 | 1      | 5       | Policy 5.7.9  | Reject         |
| 548.065          | AWUG                            | 1      | 5       | Policy 5.7.10 | Accept         |
| 676.058          | Dairy NZ                        | 1      | 5       | Policy 5.7.10 | Accept         |
| 1124.007         | S MacKenzie                     | 1      | 5       | Policy 5.7.10 | Accept         |
| 1189.066         | Ngāi Tahu                       | 1      | 5       | Policy 5.7.10 | Accept         |
| 715.086          | Forest and Bird                 | 1      | 5       | Policy 5.7.10 | Reject         |
| 631.045          | Constellation                   | 1      | 5       | Policy 5.7.10 | Reject         |
| 1242.039         | Yealands Estate Limited         | 1      | 5       | Policy 5.7.10 | Reject         |
| 1039.063         | Pernod Ricard                   | 1      | 5       | Policy 5.7.10 | Reject         |

| Submission Point | Submitter                  | Volume | Chapter | Provision     | Recommendation |
|------------------|----------------------------|--------|---------|---------------|----------------|
| 778.074          | Irrigation NZ              | 1      | 5       | Policy 5.7.10 | Reject         |
| 288.003          | M Croad                    | 1      | 5       | Policy 5.7.10 | Reject         |
| 297.003          | Red Barn Vineyards         | 1      | 5       | Policy 5.7.10 | Reject         |
| 300.003          | Hawkswood Vineyard Limited | 1      | 5       | Policy 5.7.10 | Reject         |
| 548.066          | AWUG                       | 1      | 5       | Policy 5.7.11 | Accept         |
| 676.059          | Dairy NZ                   | 1      | 5       | Policy 5.7.11 | Accept         |
| 778.075          | Irrigation NZ              | 1      | 5       | Policy 5.7.11 | Accept         |
| 1124.008         | S MacKenzie                | 1      | 5       | Policy 5.7.11 | Accept         |
| 715.087          | Forest and Bird            | 1      | 5       | Policy 5.7.11 | Reject         |
| 1039.064         | Pernod Ricard              | 1      | 5       | Policy 5.7.11 | Reject         |
| 425.071          | Federated Farmers          | 1      | 5       | Policy 5.8.1  | Accept         |
| 431.026          | Wine Marlborough           | 1      | 5       | Policy 5.8.1  | Accept         |
| 454.133          | K Loe                      | 1      | 5       | Policy 5.8.1  | Accept         |
| 455.019          | J Hickman                  | 1      | 5       | Policy 5.8.1  | Accept         |
| 456.019          | G Mehlhopt                 | 1      | 5       | Policy 5.8.1  | Accept         |
| 457.026          | Accolade                   | 1      | 5       | Policy 5.8.1  | Accept         |
| 462.056          | BRIL                       | 1      | 5       | Policy 5.8.1  | Accept         |
| 473.023          | Delegat Limited            | 1      | 5       | Policy 5.8.1  | Accept         |
| 484.029          | Clintondale                | 1      | 5       | Policy 5.8.1  | Accept         |
| 504.011          | QCS Residents              | 1      | 5       | Policy 5.8.1  | Accept         |
| 509.100          | Fish and Game              | 1      | 5       | Policy 5.8.1  | Accept         |
| 548.067          | AWUG                       | 1      | 5       | Policy 5.8.1  | Accept         |
| 631.019          | Constellation              | 1      | 5       | Policy 5.8.1  | Accept         |
| 1039.066         | Pernod Ricard              | 1      | 5       | Policy 5.8.1  | Accept         |
| 676.062          | Dairy NZ                   | 1      | 5       | Policy 5.8.1  | Accept         |
| 715.090          | Forest and Bird            | 1      | 5       | Policy 5.8.1  | Accept         |
| 769.035          | Horticulture NZ            | 1      | 5       | Policy 5.8.1  | Accept         |
| 1251.018         | Fonterra                   | 1      | 5       | Policy 5.8.1  | Accept         |
| 909.024          | Longfield Farm Limited     | 1      | 5       | Policy 5.8.1  | Accept         |

| Submission Point | Submitter               | Volume | Chapter | Provision    | Recommendation |
|------------------|-------------------------|--------|---------|--------------|----------------|
| 776.018          | Indevin Estates Limited | 1      | 5       | Policy 5.8.1 | Accept         |
| 778.076          | Irrigation NZ           | 1      | 5       | Policy 5.8.1 | Accept         |
| 1124.042         | S MacKenzie             | 1      | 5       | Policy 5.8.1 | Accept         |
| 1218.024         | Villa Maria             | 1      | 5       | Policy 5.8.1 | Accept         |
| 1242.019         | Yealands Estate Limited | 1      | 5       | Policy 5.8.1 | Accept         |
| 698.035          | EDS                     | 1      | 5       | Policy 5.8.1 | Reject         |
| 1189.068         | Ngāi Tahu               | 1      | 5       | Policy 5.8.1 | Reject         |
| 425.072          | Federated Farmers       | 1      | 5       | Policy 5.8.2 | Accept         |
| 431.027          | Wine Marlborough        | 1      | 5       | Policy 5.8.2 | Accept         |
| 454.134          | K Loe                   | 1      | 5       | Policy 5.8.2 | Accept         |
| 455.020          | J Hickman               | 1      | 5       | Policy 5.8.2 | Accept         |
| 456.020          | G Mehlhopt              | 1      | 5       | Policy 5.8.2 | Accept         |
| 457.027          | Accolade                | 1      | 5       | Policy 5.8.2 | Accept         |
| 462.057          | BRIL                    | 1      | 5       | Policy 5.8.2 | Accept         |
| 472.005          | ME Taylor Limited       | 1      | 5       | Policy 5.8.2 | Accept         |
| 473.024          | Delegat Limited         | 1      | 5       | Policy 5.8.2 | Accept         |
| 484.030          | Clintondale             | 1      | 5       | Policy 5.8.2 | Accept         |
| 548.068          | AWUG                    | 1      | 5       | Policy 5.8.2 | Accept         |
| 631.020          | Constellation           | 1      | 5       | Policy 5.8.2 | Accept         |
| 1039.067         | Pernod Ricard           | 1      | 5       | Policy 5.8.2 | Accept         |
| 676.063          | Dairy NZ                | 1      | 5       | Policy 5.8.2 | Accept         |
| 715.091          | Forest and Bird         | 1      | 5       | Policy 5.8.2 | Accept         |
| 769.036          | Horticulture NZ         | 1      | 5       | Policy 5.8.2 | Accept         |
| 776.019          | Indevin Estates Limited | 1      | 5       | Policy 5.8.2 | Accept         |
| 778.077          | Irrigation NZ           | 1      | 5       | Policy 5.8.2 | Accept         |
| 909.025          | Longfield Farm Limited  | 1      | 5       | Policy 5.8.2 | Accept         |
| 1124.043         | S MacKenzie             | 1      | 5       | Policy 5.8.2 | Accept         |
| 1218.025         | Villa Maria             | 1      | 5       | Policy 5.8.2 | Accept         |
| 1242.020         | Yealands Estate Limited | 1      | 5       | Policy 5.8.2 | Accept         |

| Submission Point | Submitter                         | Volume | Chapter | Provision    | Recommendation |
|------------------|-----------------------------------|--------|---------|--------------|----------------|
| 1251.019         | Fonterra                          | 1      | 5       | Policy 5.8.2 | Accept         |
| 509.101          | Fish and Game                     | 1      | 5       | Policy 5.8.2 | Reject         |
| 249.005          | J Jones                           | 1      | 5       | Policy 5.8.3 | Accept         |
| 425.073          | Federated Farmers                 | 1      | 5       | Policy 5.8.3 | Accept         |
| 454.135          | K Loe                             | 1      | 5       | Policy 5.8.3 | Accept         |
| 455.021          | J Hickman                         | 1      | 5       | Policy 5.8.3 | Accept         |
| 456.021          | G Mehlhopt                        | 1      | 5       | Policy 5.8.3 | Accept         |
| 472.006          | ME Taylor Limited                 | 1      | 5       | Policy 5.8.3 | Accept         |
| 484.031          | Clintondale                       | 1      | 5       | Policy 5.8.3 | Accept         |
| 1039.068         | Pernod Ricard                     | 1      | 5       | Policy 5.8.3 | Accept         |
| 676.064          | Dairy NZ                          | 1      | 5       | Policy 5.8.3 | Accept         |
| 715.092          | Forest and Bird                   | 1      | 5       | Policy 5.8.3 | Accept         |
| 769.037          | Horticulture NZ                   | 1      | 5       | Policy 5.8.3 | Accept         |
| 778.078          | Irrigation NZ                     | 1      | 5       | Policy 5.8.3 | Accept         |
| 1124.002         | S MacKenzie                       | 1      | 5       | Policy 5.8.3 | Accept         |
| 1124.044         | S MacKenzie                       | 1      | 5       | Policy 5.8.3 | Accept         |
| 909.062          | Longfield Farm Limited            | 1      | 5       | Policy 5.8.3 | Reject         |
| 457.028          | Accolade                          | 1      | 5       | Policy 5.8.3 | Reject         |
| 910.002          | Lower Waihopai Irrigation Company | 1      | 5       | Policy 5.8.3 | Reject         |
| 777.003          | Investavine Limited               | 1      | 5       | Policy 5.8.3 | Reject         |
| 548.069          | AWUG                              | 1      | 5       | Policy 5.8.3 | Reject         |
| 462.030          | BRIL                              | 1      | 5       | Policy 5.8.3 | Reject         |
| 431.072          | Wine Marlborough                  | 1      | 5       | Policy 5.8.3 | Reject         |
| 1218.063         | Villa Maria                       | 1      | 5       | Policy 5.8.3 | Reject         |
| 473.025          | Delegat Limited                   | 1      | 5       | Policy 5.8.3 | Reject         |
| 776.020          | Indevin Estates Limited           | 1      | 5       | Policy 5.8.3 | Reject         |
| 509.102          | Fish and Game                     | 1      | 5       | Policy 5.8.3 | Reject         |
| 631.046          | Constellation                     | 1      | 5       | Policy 5.8.3 | Reject         |
| 1242.040         | Yealands Estate Limited           | 1      | 5       | Policy 5.8.3 | Reject         |

| Submission Point | Submitter                       | Volume | Chapter | Provision                                   | Recommendation |
|------------------|---------------------------------|--------|---------|---|----------------|
| 1251.020         | Fonterra                        | 1      | 5       | Policy 5.8.3                                | Reject         |
| 455.022          | J Hickman                       | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 456.022          | G Mehlhopt                      | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 548.070          | AWUG                            | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 1039.069         | Pernod Ricard                   | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 676.065          | Dairy NZ                        | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 715.093          | Forest and Bird                 | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 778.079          | Irrigation NZ                   | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 1124.045         | S MacKenzie                     | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 454.136          | K Loe                           | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 712.004          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.8.4 (lodged against Objective 5.8) | Accept in part |
| 712.005          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.8.4 (lodged against Policy 5.8.1)  | Accept in part |
| 712.006          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.8.4 (lodged against Policy 5.8.2)  | Accept in part |
| 712.007          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.8.4 (lodged against Policy 5.8.3)  | Accept in part |
| 712.008          | Flaxbourne Settlers Association | 1      | 5       | Policy 5.8.4                                | Accept in part |
| 425.074          | Federated Farmers               | 1      | 5       | Policy 5.8.4                                | Reject         |
| 1251.021         | Fonterra                        | 1      | 5       | Policy 5.8.4                                | Reject         |
| 509.103          | Fish and Game                   | 1      | 5       | Policy 5.8.3                                | Reject         |
| 425.075          | Federated Farmers               | 1      | 5       | Policy 5.8.5                                | Accept         |
| 455.023          | J Hickman                       | 1      | 5       | Policy 5.8.5                                | Accept         |
| 456.023          | G Mehlhopt                      | 1      | 5       | Policy 5.8.5                                | Accept         |
| 548.071          | AWUG                            | 1      | 5       | Policy 5.8.5                                | Accept         |
| 1039.070         | Pernod Ricard                   | 1      | 5       | Policy 5.8.5                                | Accept         |
| 676.066          | Dairy NZ                        | 1      | 5       | Policy 5.8.5                                | Accept         |
| 715.094          | Forest and Bird                 | 1      | 5       | Policy 5.8.5                                | Accept         |
| 778.080          | Irrigation NZ                   | 1      | 5       | Policy 5.8.5                                | Accept         |
| 961.007          | Chamber                         | 1      | 5       | Policy 5.8.5                                | Accept         |
| 509.104          | Fish and Game                   | 1      | 5       | Policy 5.8.5                                | Reject         |
| 548.072          | AWUG                            | 1      | 5       | Policy 5.9.1                                | Accept         |

| Submission Point | Submitter              | Volume | Chapter | Provision    | Recommendation                |
|------------------|------------------------|--------|---------|--------------|-------------------------------|
| 688.026          | J and J Hellstrom      | 1      | 5       | Policy 5.9.1 | Accept                        |
| 676.069          | Dairy NZ               | 1      | 5       | Policy 5.9.1 | Accept                        |
| 715.097          | Forest and Bird        | 1      | 5       | Policy 5.9.1 | Accept                        |
| 778.081          | Irrigation NZ          | 1      | 5       | Policy 5.9.1 | Accept                        |
| 425.076          | Federated Farmers      | 1      | 5       | Policy 5.9.1 | Reject                        |
| 484.032          | Clintondale            | 1      | 5       | Policy 5.9.1 | Reject                        |
| 501.019          | Ngāti Kuia             | 1      | 5       | Policy 5.9.1 | None – no clear relief sought |
| 717.036          | Fulton Hogan           | 1      | 5       | Policy 5.9.1 | Reject                        |
| 1039.072         | Pernod Ricard          | 1      | 5       | Policy 5.9.1 | Reject                        |
| 431.091          | Wine Marlborough       | 1      | 5       | Policy 5.9.1 | Reject                        |
| 457.030          | Accolade               | 1      | 5       | Policy 5.9.1 | Reject                        |
| 473.059          | Delegat Limited        | 1      | 5       | Policy 5.9.1 | Reject                        |
| 909.087          | Longfield Farm Limited | 1      | 5       | Policy 5.9.1 | Reject                        |
| 1218.027         | Villa Maria            | 1      | 5       | Policy 5.9.1 | Reject                        |
| 1251.024         | Fonterra               | 1      | 5       | Policy 5.9.1 | Reject                        |
| 425.077          | Federated Farmers      | 1      | 5       | Policy 5.9.2 | Accept                        |
| 548.073          | AWUG                   | 1      | 5       | Policy 5.9.2 | Accept                        |
| 688.027          | J and J Hellstrom      | 1      | 5       | Policy 5.9.2 | Accept                        |
| 676.070          | Dairy NZ               | 1      | 5       | Policy 5.9.2 | Accept                        |
| 715.098          | Forest and Bird        | 1      | 5       | Policy 5.9.2 | Accept                        |
| 778.082          | Irrigation NZ          | 1      | 5       | Policy 5.9.2 | Accept                        |
| 484.033          | Clintondale            | 1      | 5       | Policy 5.9.2 | Reject                        |
| 1039.073         | Pernod Ricard          | 1      | 5       | Policy 5.9.2 | Reject                        |
| 431.092          | Wine Marlborough       | 1      | 5       | Policy 5.9.2 | Reject                        |
| 457.031          | Accolade               | 1      | 5       | Policy 5.9.2 | Reject                        |
| 473.058          | Delegat Limited        | 1      | 5       | Policy 5.9.2 | Reject                        |
| 909.088          | Longfield Farm Limited | 1      | 5       | Policy 5.9.2 | Reject                        |
| 1218.028         | Villa Maria            | 1      | 5       | Policy 5.9.2 | Reject                        |
| 1251.025         | Fonterra               | 1      | 5       | Policy 5.9.2 | Reject                        |

| Submission Point | Submitter                   | Volume | Chapter | Provision  | Recommendation |
|------------------|-----------------------------|--------|---------|--|----------------|
| 425.078          | Federated Farmers           | 1      | 5       | Policy 5.9.3   | Accept         |
| 548.074          | AWUG                        | 1      | 5       | Policy 5.9.3   | Accept         |
| 688.028          | J and J Hellstrom           | 1      | 5       | Policy 5.9.3   | Accept         |
| 676.071          | Dairy NZ                    | 1      | 5       | Policy 5.9.3   | Accept         |
| 715.099          | Forest and Bird             | 1      | 5       | Policy 5.9.3   | Accept         |
| 484.034          | Clintondale                 | 1      | 5       | Policy 5.9.3   | Reject         |
| 778.083          | Irrigation NZ               | 1      | 5       | Policy 5.9.3   | Reject         |
| 1039.074         | Pernod Ricard               | 1      | 5       | Policy 5.9.3   | Reject         |
| 431.093          | Wine Marlborough            | 1      | 5       | Policy 5.9.3   | Reject         |
| 457.032          | Accolade                    | 1      | 5       | Policy 5.9.3   | Reject         |
| 473.057          | Delegat Limited             | 1      | 5       | Policy 5.9.3   | Reject         |
| 909.089          | Longfield Farm Limited      | 1      | 5       | Policy 5.9.3   | Reject         |
| 1218.029         | Villa Maria                 | 1      | 5       | Policy 5.9.3   | Reject         |
| 1251.026         | Fonterra                    | 1      | 5       | Policy 5.9.3   | Reject         |
| 548.075          | AWUG                        | 1      | 5       | Method 5.M.1   | Accept in part |
| 91.047           | MDC                         | 1      | 5       | Method 5.M.1   | Accept         |
| 548.076          | AWUG                        | 1      | 5       | Method 5.M.2   | Accept         |
| 961.008          | Chamber                     | 1      | 5       | Method 5.M.2   | Accept         |
| 166.041          | Ngāti Toa                   | 1      | 5       | Method 5.M.2   | Reject         |
| 778.084          | Irrigation NZ               | 1      | 5       | Method 5.M.3   | Accept         |
| 431.094          | Wine Marlborough            | 1      | 5       | Method 5.M.3   | Reject         |
| 457.033          | Accolade                    | 1      | 5       | Method 5.M.3   | Reject         |
| 473.056          | Delegat Limited             | 1      | 5       | Method 5.M.3   | Reject         |
| 909.090          | Longfield Farm Limited      | 1      | 5       | Method 5.M.3   | Reject         |
| 1218.030         | Villa Maria                 | 1      | 5       | Method 5.M.3   | Reject         |
| 548.077          | AWUG                        | 1      | 5       | Method 5.M.3 (incorrectly recorded against Method 5.M.4) | Reject         |
| 548.078          | AWUG                        | 1      | 5       | Method 5.M.4   | Accept         |
| 370.002          | K Saville-Smith and B James | 1      | 5       | Method 5.M.4   | Reject         |
| 548.079          | AWUG                        | 1      | 5       | Method 5.M.5   | Accept         |



| Submission Point | Submitter                      | Volume | Chapter | Provision  | Recommendation                        |
|------------------|--------------------------------|--------|---------|--|---------------------------------------|
| 548.080          | AWUG                           | 1      | 5       | Method 5.M.6   | Accept                                |
| 455.024          | J Hickman                      | 1      | 5       | Method 5.M.6   | Accept                                |
| 456.024          | G Mehlhopt                     | 1      | 5       | Method 5.M.6   | Accept                                |
| 548.081          | AWUG                           | 1      | 5       | Method 5.M.7   | Accept                                |
| 548.082          | AWUG                           | 1      | 5       | Method 5.M.8   | Accept                                |
| 548.083          | AWUG                           | 1      | 5       | Method 5.M.9   | Accept                                |
| 778.085          | Irrigation NZ                  | 1      | 5       | Method 5.M.9   | Reject                                |
| 769.038          | Horticulture NZ                | 1      | 5       | New Method   | Reject                                |
| 715.111          | Forest and Bird                | 1      | 5       | 5.AER.1  | Accept                                |
| 716.053          | Friends                        | 1      | 5       | 5.AER.1  | Accept                                |
| 715.112          | Forest and Bird                | 1      | 5       | 5.AER.2  | Accept                                |
| 715.113          | Forest and Bird                | 1      | 5       | 5.AER.3  | Accept in part                        |
| 716.054          | Friends                        | 1      | 5       | 5.AER.3  | Accept in part                        |
| 715.114          | Forest and Bird                | 1      | 5       | 5.AER.4  | Accept                                |
| 715.115          | Forest and Bird                | 1      | 5       | 5.AER.5  | Accept                                |
| 715.116          | Forest and Bird                | 1      | 5       | 5.AER.6  | Accept                                |
| 715.117          | Forest and Bird                | 1      | 5       | 5.AER.7  | Accept                                |
| 715.118          | Forest and Bird                | 1      | 5       | 5.AER.8  | Accept                                |
| 715.119          | Forest and Bird                | 1      | 5       | 5.AER.9  | Accept                                |
| 504.017          | QCS Residents                  | 1      | 5       | 5.AER.9  | Accept                                |
| 91.079           | MDC                            | 1      | 5       | New AER (lodged against Chapter 5)                         | Accept                                |
| 994.006          | NZ Fish Passage Advisory Group | 1      | 5       | New AER (lodged against Chapter 5)                         | None – outside scope of hearing topic |
| 908.018          | Lion                           | 2      | 2       | Heading 2.1  | Accept                                |
| 1039.104         | Pernod Ricard                  | 2      | 2       | Heading 2.1  | Accept                                |
| 509.204          | Fish and Game                  | 2      | 2       | Heading 2.1  | Reject                                |
| 509.236          | Fish and Game                  | 2      | 2       | Heading 2.1 (lodged against Chapter 2 general submissions) | Reject                                |
| 992.036          | NZDF                           | 2      | 2       | Heading 2.1 (lodged against Chapter 2 general submissions) | Reject                                |

| Submission Point | Submitter                                 | Volume | Chapter | Provision  | Recommendation |
|------------------|---|--------|---------|--|----------------|
| 992.037          | NZDF                                      | 2      | 2       | Heading 2.1 (lodged against Chapter 2 general submissions) | Reject         |
| 91.065           | MDC                                       | 2      | 2       | Heading 2.1  | Accept         |
| 1002.110         | NZTA                                      | 2      | 2       | Heading 2.1  | Reject         |
| 509.244          | Fish and Game                             | 2      | 2       | Heading 2.1  | Reject         |
| 778.093          | Irrigation NZ                             | 2      | 2       | Heading 2.1  | Reject         |
| 431.048          | Wine Marlborough                          | 2      | 2       | Rule 2.1.1   | Accept         |
| 454.046          | K Loe                                     | 2      | 2       | Rule 2.1.1   | Accept         |
| 1237.011         | Willowgrove Dairies Limited               | 2      | 2       | Rule 2.1.1   | Accept         |
| 712.089          | Flaxbourne Settlers Association           | 2      | 2       | Rule 2.1.1   | Accept         |
| 1124.050         | S MacKenzie                               | 2      | 2       | Rule 2.1.1   | Accept         |
| 457.048          | Accolade                                  | 2      | 2       | Rule 2.1.1   | Accept         |
| 462.010          | BRIL                                      | 2      | 2       | Rule 2.1.1   | Accept         |
| 473.034          | Delegat Limited                           | 2      | 2       | Rule 2.1.1   | Accept         |
| 484.052          | Clintondale                               | 2      | 2       | Rule 2.1.1   | Accept         |
| 548.091          | AWUG                                      | 2      | 2       | Rule 2.1.1   | Accept         |
| 776.028          | Indevin Estates Limited                   | 2      | 2       | Rule 2.1.1   | Accept         |
| 909.039          | Longfield Farm Limited                    | 2      | 2       | Rule 2.1.1   | Accept         |
| 1218.039         | Villa Maria                               | 2      | 2       | Rule 2.1.1   | Accept         |
| 970.014          | Middlehurst Station Limited               | 2      | 2       | Rule 2.1.1   | Accept         |
| 425.434          | Federated Farmers                         | 2      | 2       | Rule 2.1.1   | Reject         |
| 992.039          | NZDF                                      | 2      | 2       | Standard 2.1.1.2 (lodged against Heading 2.1)              | Accept         |
| 1002.109         | NZTA                                      | 2      | 2       | Standard 2.1.1.2 (lodged against Rule 2.1.1)               | Accept         |
| 425.435          | Federated Farmers                         | 2      | 2       | Standard 2.1.1.2   | Reject         |
| 908.019          | Lion                                      | 2      | 2       | Heading 2.2  | Accept in part |
| 967.009          | Marlborough Roads                         | 2      | 2       | Heading 2.2  | Accept in part |
| 172.002          | Davidson Group Limited                    | 2      | 2       | Heading 2.2  | Accept in part |
| 267.001          | Marlborough Motor-Cycle Club Incorporated | 2      | 2       | Heading 2.2  | Accept in part |

| Submission Point | Submitter              | Volume | Chapter | Provision   | Recommendation |
|------------------|------------------------|--------|---------|-------------|----------------|
| 1198.039         | Transpower NZ Limited  | 2      | 2       | Heading 2.2 | Reject         |
| 90.001           | T Hewitt               | 2      | 2       | Heading 2.2 | Reject         |
| 873.085          | KiwiRail               | 2      | 2       | Heading 2.2 | Reject         |
| 992.043          | NZDF                   | 2      | 2       | Heading 2.2 | Reject         |
| 1039.105         | Pernod Ricard          | 2      | 2       | Heading 2.2 | Reject         |
| 425.437          | Federated Farmers      | 2      | 2       | Heading 2.2 | Reject         |
| 907.034          | Levide Capital Limited | 2      | 2       | Heading 2.2 | Reject         |
| 548.092          | AWUG                   | 2      | 2       | Rule 2.2.1  | Accept         |
| 424.135          | M and K Gerard         | 2      | 2       | Rule 2.2.1  | Accept         |
| 509.205          | Fish and Game          | 2      | 2       | Rule 2.2.1  | Accept         |
| 769.075          | Horticulture NZ        | 2      | 2       | Rule 2.2.1  | Reject         |
| 1186.101         | Te Ātiawa              | 2      | 2       | Rule 2.2.1  | Reject         |
| 425.436          | Federated Farmers      | 2      | 2       | Rule 2.2.1  | Reject         |
| 509.207          | Fish and Game          | 2      | 2       | Rule 2.2.2  | Reject         |
| 509.209          | Fish and Game          | 2      | 2       | Rule 2.2.3  | Accept         |
| 1186.103         | Te Ātiawa              | 2      | 2       | Rule 2.2.3  | Accept         |
| 548.093          | AWUG                   | 2      | 2       | Rule 2.2.4  | Accept in part |
| 424.136          | M and K Gerard         | 2      | 2       | Rule 2.2.4  | Accept in part |
| 998.041          | NZ Pork                | 2      | 2       | Rule 2.2.4  | Accept in part |
| 1251.057         | Fonterra               | 2      | 2       | Rule 2.2.4  | Accept         |
| 509.211          | Fish and Game          | 2      | 2       | Rule 2.2.4  | Reject         |
| 425.439          | Federated Farmers      | 2      | 2       | Rule 2.2.4  | Reject         |
| 424.137          | M and K Gerard         | 2      | 2       | Rule 2.2.5  | Accept         |
| 431.049          | Wine Marlborough       | 2      | 2       | Rule 2.2.5  | Accept         |
| 457.049          | Accolade               | 2      | 2       | Rule 2.2.5  | Accept         |
| 462.011          | BRIL                   | 2      | 2       | Rule 2.2.5  | Accept         |
| 473.035          | Delegat Limited        | 2      | 2       | Rule 2.2.5  | Accept         |
| 484.053          | Clintondale            | 2      | 2       | Rule 2.2.5  | Accept         |
| 548.094          | AWUG                   | 2      | 2       | Rule 2.2.5  | Accept         |

| Submission Point | Submitter                 | Volume | Chapter | Provision   | Recommendation                |
|------------------|---------------------------|--------|---------|-------------|-------------------------------|
| 776.029          | Indevin Estates Limited   | 2      | 2       | Rule 2.2.5  | Accept                        |
| 909.040          | Longfield Farm Limited    | 2      | 2       | Rule 2.2.5  | Accept                        |
| 1218.040         | Villa Maria               | 2      | 2       | Rule 2.2.5  | Accept                        |
| 509.213          | Fish and Game             | 2      | 2       | Rule 2.2.5  | Reject                        |
| 425.441          | Federated Farmers         | 2      | 2       | Rule 2.2.5  | Reject                        |
| 769.076          | Horticulture NZ           | 2      | 2       | Rule 2.2.5  | Reject                        |
| 998.042          | NZ Pork                   | 2      | 2       | Rule 2.2.5  | Reject                        |
| 141.014          | Hall Family Farms Limited | 2      | 2       | Rule 2.2.6  | Reject                        |
| 430.001          | J & P Harvey              | 2      | 2       | Rule 2.2.6  | Reject                        |
| 339.024          | S Parkes                  | 2      | 2       | Rule 2.2.6  | Reject                        |
| 451.001          | Bown Partnership          | 2      | 2       | Rule 2.2.6  | None pending hearing evidence |
| 509.215          | Fish and Game             | 2      | 2       | Rule 2.2.6  | Reject                        |
| 1251.059         | Fonterra                  | 2      | 2       | Rule 2.2.6  | Reject                        |
| 509.217          | Fish and Game             | 2      | 2       | Rule 2.2.7  | Reject                        |
| 769.077          | Horticulture NZ           | 2      | 2       | Rule 2.2.7  | Reject                        |
| 425.443          | Federated Farmers         | 2      | 2       | Rule 2.2.7  | Reject                        |
| 548.095          | AWUG                      | 2      | 2       | Rule 2.2.8  | Accept in part                |
| 424.138          | M and K Gerard            | 2      | 2       | Rule 2.2.8  | Accept in part                |
| 509.219          | Fish and Game             | 2      | 2       | Rule 2.2.8  | Reject                        |
| 479.151          | DOC                       | 2      | 2       | Rule 2.2.8  | Reject                        |
| 993.018          | FENZ                      | 2      | 2       | Rule 2.2.8  | Accept in part                |
| 548.096          | AWUG                      | 2      | 2       | Rule 2.2.9  | Accept                        |
| 509.220          | Fish and Game             | 2      | 2       | Rule 2.2.9  | Accept                        |
| 509.222          | Fish and Game             | 2      | 2       | Rule 2.2.10 | Accept in part                |
| 548.097          | AWUG                      | 2      | 2       | Rule 2.2.10 | Accept in part                |
| 992.041          | NZDF                      | 2      | 2       | Rule 2.2.10 | Accept in part                |
| 509.222          | Fish and Game             | 2      | 2       | Rule 2.2.10 | Reject                        |
| 548.098          | AWUG                      | 2      | 2       | Rule 2.2.11 | Accept in part                |
| 873.079          | KiwiRail                  | 2      | 2       | Rule 2.2.11 | Accept                        |

| Submission Point | Submitter                   | Volume | Chapter | Provision   | Recommendation                   |
|------------------|-----------------------------|--------|---------|-------------|----------------------------------|
| 1002.111         | NZTA                        | 2      | 2       | Rule 2.2.11 | Reject                           |
| 1151.009         | Simcox Construction Limited | 2      | 2       | Rule 2.2.11 | Reject                           |
| 509.224          | Fish and Game               | 2      | 2       | Rule 2.2.11 | Reject                           |
| 548.099          | AWUG                        | 2      | 2       | Rule 2.2.12 | Accept in part                   |
| 1198.038         | Transpower NZ Limited       | 2      | 2       | Rule 2.2.12 | Accept in part                   |
| 873.080          | KiwiRail                    | 2      | 2       | Rule 2.2.12 | Accept in part                   |
| 91.108           | MDC                         | 2      | 2       | Rule 2.2.12 | Accept                           |
| 1004.025         | Oil Companies               | 2      | 2       | Rule 2.2.12 | Reject                           |
| 1002.112         | NZTA                        | 2      | 2       | Rule 2.2.12 | Accept in part                   |
| 509.226          | Fish and Game               | 2      | 2       | Rule 2.2.12 | None – no specific relief sought |
| 548.100          | AWUG                        | 2      | 2       | Rule 2.2.14 | Accept                           |
| 509.228          | Fish and Game               | 2      | 2       | Rule 2.2.14 | Reject                           |
| 548.101          | AWUG                        | 2      | 2       | Rule 2.2.15 | Accept                           |
| 424.139          | M and K Gerard              | 2      | 2       | Rule 2.2.15 | Accept                           |
| 873.082          | KiwiRail                    | 2      | 2       | Rule 2.2.15 | Accept                           |
| 1002.113         | NZTA                        | 2      | 2       | Rule 2.2.15 | Accept                           |
| 717.064          | Fulton Hogan                | 2      | 2       | Rule 2.2.15 | Reject                           |
| 1251.118         | Fonterra                    | 2      | 2       | Rule 2.2.15 | Reject                           |
| 479.155          | DOC                         | 2      | 2       | Rule 2.2.15 | Reject                           |
| 509.230          | Fish and Game               | 2      | 2       | Rule 2.2.15 | Reject                           |
| 548.102          | AWUG                        | 2      | 2       | Rule 2.2.16 | Accept                           |
| 509.232          | Fish and Game               | 2      | 2       | Rule 2.2.16 | Reject                           |
| 548.103          | AWUG                        | 2      | 2       | Rule 2.2.17 | Accept                           |
| 455.030          | J Hickman                   | 2      | 2       | Rule 2.2.17 | Accept                           |
| 456.030          | G Mehlhopt                  | 2      | 2       | Rule 2.2.17 | Accept                           |
| 1002.115         | NZTA                        | 2      | 2       | Rule 2.2.17 | Accept                           |
| 1124.051         | S MacKenzie                 | 2      | 2       | Rule 2.2.17 | Accept                           |
| 479.157          | DOC                         | 2      | 2       | Rule 2.2.17 | Reject                           |
| 425.444          | Federated Farmers           | 2      | 2       | Rule 2.2.17 | Reject                           |

| Submission Point | Submitter                       | Volume | Chapter | Provision                                       | Recommendation |
|------------------|---------------------------------|--------|---------|---|----------------|
| 454.047          | K Loe                           | 2      | 2       | Rule 2.2.17                                     | Reject         |
| 712.009          | Flaxbourne Settlers Association | 2      | 2       | Rule 2.2.17                                     | Reject         |
| 896.002          | K Loe                           | 2      | 2       | Rule 2.2.17                                     | Reject         |
| 509.234          | Fish and Game                   | 2      | 2       | Rule 2.2.17                                     | Reject         |
| 1002.116         | NZTA                            | 2      | 2       | Rule 2.2.18                                     | Accept in part |
| 509.237          | Fish and Game                   | 2      | 2       | Rule 2.2.18                                     | Reject         |
| 1193.113         | Environment Centre              | 2      | 2       | Rule 2.2.19                                     | Accept         |
| 509.239          | Fish and Game                   | 2      | 2       | Rule 2.2.19                                     | Reject         |
| 509.241          | Fish and Game                   | 2      | 2       | Rule 2.2.20                                     | Reject         |
| 509.243          | Fish and Game                   | 2      | 2       | Rule 2.2.21                                     | Reject         |
| 509.246          | Fish and Game                   | 2      | 2       | Rule 2.2.22                                     | Reject         |
| 548.104          | AWUG                            | 2      | 2       | Rule 2.2.24                                     | Accept         |
| 509.248          | Fish and Game                   | 2      | 2       | Rule 2.2.24                                     | Reject         |
| 967.010          | Marlborough Roads               | 2      | 2       | Heading 2.3                                     | Accept in part |
| 1198.040         | Transpower NZ Limited           | 2      | 2       | Heading 2.3                                     | Reject         |
| 1039.106         | Pernod Ricard                   | 2      | 2       | Heading 2.3                                     | Accept         |
| 548.105          | AWUG                            | 2      | 2       | Heading 2.3.1                                   | Accept         |
| 769.078          | Horticulture NZ                 | 2      | 2       | Heading 2.3.1                                   | Reject         |
| 425.438          | Federated Farmers               | 2      | 2       | Heading 2.3.1                                   | Reject         |
| 509.206          | Fish and Game                   | 2      | 2       | Heading 2.3.1                                   | Reject         |
| 509.206          | Fish and Game                   | 2      | 2       | Standard 2.3.1.1 (lodged against Heading 2.3.1) | Reject         |
| 996.014          | Surveyors                       | 2      | 2       | Standard 2.3.1.1                                | Reject         |
| 1042.012         | Port Underwood Association      | 2      | 2       | Standard 2.3.1.2                                | Reject         |
| 509.229          | Fish and Game                   | 2      | 2       | Standard 2.3.1.3                                | Reject         |
| 509.208          | Fish and Game                   | 2      | 2       | Heading 2.3.2                                   | Reject         |
| 1186.104         | Te Ātiawa                       | 2      | 2       | Standard 2.3.2.1                                | Reject         |
| 509.207          | Fish and Game                   | 2      | 2       | Standard 2.3.2.2 (lodged against Rule 2.2.2)    | Reject         |
| 996.015          | Surveyors                       | 2      | 2       | Standard 2.3.2.2                                | Reject         |

| Submission Point | Submitter               | Volume | Chapter | Provision                                       | Recommendation |
|------------------|-------------------------|--------|---------|---|----------------|
| 509.210          | Fish and Game           | 2      | 2       | Heading 2.3.3                                   | Accept         |
| 548.106          | AWUG                    | 2      | 2       | Heading 2.3.4                                   | Accept in part |
| 1251.058         | Fonterra                | 2      | 2       | Heading 2.3.4                                   | Accept         |
| 509.212          | Fish and Game           | 2      | 2       | Heading 2.3.4                                   | Reject         |
| 425.440          | Federated Farmers       | 2      | 2       | Heading 2.3.4                                   | Reject         |
| 509.212          | Fish and Game           | 2      | 2       | Standard 2.3.4.1 (lodged against Heading 2.3.4) | Reject         |
| 996.016          | Surveyors               | 2      | 2       | Standard 2.3.4.1                                | Reject         |
| 431.050          | Wine Marlborough        | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 457.050          | Accolade                | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 462.012          | BRIL                    | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 473.036          | Delegat Limited         | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 484.054          | Clintondale             | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 548.107          | AWUG                    | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 776.030          | Indevin Estates Limited | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 909.041          | Longfield Farm Limited  | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 1218.041         | Villa Maria             | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 1124.057         | S MacKenzie             | 2      | 2       | Heading 2.3.5                                   | Accept         |
| 509.214          | Fish and Game           | 2      | 2       | Heading 2.3.5                                   | Reject         |
| 769.079          | Horticulture NZ         | 2      | 2       | Heading 2.3.5                                   | Reject         |
| 509.213          | Fish and Game           | 2      | 2       | Standard 2.3.5.1 (lodged against Rule 2.2.5)    | Reject         |
| 996.017          | Surveyors               | 2      | 2       | Standard 2.3.5.1                                | Reject         |
| 509.216          | Fish and Game           | 2      | 2       | Heading 2.3.6                                   | Reject         |
| 1251.060         | Fonterra                | 2      | 2       | Heading 2.3.6                                   | Reject         |
| 676.080          | Dairy NZ                | 2      | 2       | Heading 2.3.6                                   | Reject         |
| 93.001           | S & S White             | 2      | 2       | Heading 2.3.6                                   | Reject         |
| 131.001          | S Tripe                 | 2      | 2       | Heading 2.3.6                                   | Reject         |
| 509.215          | Fish and Game           | 2      | 2       | Standard 2.3.6.1 (lodged against Rule 2.2.6)    | Reject         |

| Submission Point | Submitter                        | Volume | Chapter | Provision   | Recommendation |
|------------------|----------------------------------|--------|---------|---|----------------|
| 996.018          | Surveyors                        | 2      | 2       | Standard 2.3.6.1  | Reject         |
| 509.218          | Fish and Game                    | 2      | 2       | Heading 2.3.7   | Reject         |
| 548.108          | AWUG                             | 2      | 2       | Heading 2.3.8   | Accept         |
| 778.089          | Irrigation NZ                    | 2      | 2       | Heading 2.3.8   | Accept         |
| 509.221          | Fish and Game                    | 2      | 2       | Standard 2.3.8.6  | Reject         |
| 509.223          | Fish and Game                    | 2      | 2       | Heading 2.3.9   | Accept in part |
| 992.042          | NZDF                             | 2      | 2       | Rule 2.2.10   | Accept in part |
| 778.090          | Irrigation NZ                    | 2      | 2       | Heading 2.3.9   | Accept in part |
| 509.223          | Fish and Game                    | 2      | 2       | Standard 2.3.9.2  | Reject         |
| 548.109          | AWUG                             | 2      | 2       | Heading 2.3.10  | Accept in part |
| 873.084          | KiwiRail                         | 2      | 2       | Heading 2.3.10  | Accept         |
| 509.225          | Fish and Game                    | 2      | 2       | Heading 2.3.10 (incorrectly entered against Heading 2.3.11) | Reject         |
| 548.110          | AWUG                             | 2      | 2       | Heading 2.3.11  | Accept in part |
| 873.081          | KiwiRail                         | 2      | 2       | Heading 2.3.11  | Accept in part |
| 1000.001         | North Rarangi WS                 | 2      | 2       | Standard 2.3.11.1   | Accept         |
| 1004.026         | Oil Companies                    | 2      | 2       | Standard 2.3.11.1   | Reject         |
| 1004.027         | Oil Companies                    | 2      | 2       | Standard 2.3.11.2   | Reject         |
| 1198.041         | Transpower                       | 2      | 2       | Standard 2.3.11.2   | Accept in part |
| 228.001          | Rainbow Sports Club Incorporated | 2      | 2       | Standard 2.3.12.1   | Reject         |
| 548.111          | AWUG                             | 2      | 2       | Heading 2.3.13  | Accept         |
| 509.228          | Fish and Game                    | 2      | 2       | Standard 2.3.13.2 (lodged against Rule 2.2.14)              | Reject         |
| 228.002          | Rainbow Sports Club Incorporated | 2      | 2       | Standard 2.3.12.3   | Reject         |
| 91.253           | MDC                              | 2      | 2       | Standard 2.3.12.3   | Accept         |
| 479.152          | DOC                              | 2      | 2       | Standard 2.3.13.3 (lodged against Rule 2.2.14)              | Accept         |
| 479.153          | DOC                              | 2      | 2       | Standard 2.3.13.3 (lodged against Heading 2.3.13)           | Accept         |
| 479.154          | DOC                              | 2      | 2       | Standard 2.3.13.3   | Accept         |
| 548.112          | AWUG                             | 2      | 2       | Heading 2.3.14  | Accept         |



| Submission Point | Submitter                        | Volume | Chapter | Provision         | Recommendation |
|------------------|----------------------------------|--------|---------|-------------------|----------------|
| 778.091          | Irrigation NZ                    | 2      | 2       | Heading 2.3.14    | Accept         |
| 1002.114         | NZTA                             | 2      | 2       | Heading 2.3.14    | Accept         |
| 509.231          | Fish and Game                    | 2      | 2       | Heading 2.3.14    | Reject         |
| 717.065          | Fulton Hogan                     | 2      | 2       | Rule 2.2.15       | Reject         |
| 1251.119         | Fonterra                         | 2      | 2       | Rule 2.2.15       | Reject         |
| 479.156          | DOC                              | 2      | 2       | Rule 2.2.15       | Reject         |
| 548.113          | AWUG                             | 2      | 2       | Heading 2.3.15    | Accept         |
| 873.083          | KiwiRail                         | 2      | 2       | Heading 2.3.15    | Accept         |
| 509.233          | Fish and Game                    | 2      | 2       | Heading 2.3.15    | Reject         |
| 548.114          | AWUG                             | 2      | 2       | Heading 2.3.16    | Accept         |
| 455.031          | J Hickman                        | 2      | 2       | Heading 2.3.16    | Accept         |
| 456.031          | G Mehlhopt                       | 2      | 2       | Heading 2.3.16    | Accept         |
| 479.158          | DOC                              | 2      | 2       | Heading 2.3.16    | Reject         |
| 425.445          | Federated Farmers                | 2      | 2       | Heading 2.3.16    | Reject         |
| 509.235          | Fish and Game                    | 2      | 2       | Heading 2.3.16    | Reject         |
| 1124.010         | S MacKenzie                      | 2      | 2       | Standard 2.3.16.1 | Accept         |
| 115.001          | H Thomson                        | 2      | 2       | Standard 2.3.16.1 | Reject         |
| 472.021          | ME Taylor Limited                | 2      | 2       | Standard 2.3.16.1 | Reject         |
| 454.128          | K Loe                            | 2      | 2       | Standard 2.3.16.1 | Reject         |
| 996.019          | Surveyors                        | 2      | 2       | Standard 2.3.16.1 | Reject         |
| 1002.118         | NZTA                             | 2      | 2       | Heading 2.3.17    | Accept in part |
| 509.238          | Fish and Game                    | 2      | 2       | Heading 2.3.17    | Reject         |
| 1193.112         | Environment Centre               | 2      | 2       | Standard 2.3.17.1 | Accept         |
| 1002.117         | NZTA                             | 2      | 2       | Standard 2.3.17.2 | Accept in part |
| 509.240          | Fish and Game                    | 2      | 2       | Heading 2.3.18    | Reject         |
| 509.242          | Fish and Game                    | 2      | 2       | Heading 2.3.19    | Reject         |
| 509.245          | Fish and Game                    | 2      | 2       | Heading 2.3.19    | Reject         |
| 509.247          | Fish and Game                    | 2      | 2       | Heading 2.3.21    | Reject         |
| 228.003          | Rainbow Sports Club Incorporated | 2      | 2       | Standard 2.3.22.1 | Reject         |

| Submission Point | Submitter                        | Volume | Chapter | Provision                  | Recommendation                         |
|------------------|----------------------------------|--------|---------|----------------------------|--|
| 228.004          | Rainbow Sports Club Incorporated | 2      | 2       | Standard 2.3.22.3          | Reject                                 |
| 91.254           | MDC                              | 2      | 2       | Standard 2.3.22.3          | Accept                                 |
| 548.115          | AWUG                             | 2      | 2       | Rule 2.3.23                | Accept                                 |
| 509.249          | Fish and Game                    | 2      | 2       | Rule 2.2.24                | Reject                                 |
| 172.003          | Davidson Group Limited           | 2      | 2       | Rule 2.2.24                | Reject                                 |
| 425.442          | Federated Farmers                | 2      | 2       | Heading 2.4                | Reject                                 |
| 1201.116         | Trustpower Limited               | 2      | 2       | Heading 2.4                | Reject                                 |
| 425.447          | Federated Farmers                | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 431.051          | Wine Marlborough                 | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 457.051          | Accolade                         | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 462.013          | BRIL                             | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 473.037          | Delegat Limited                  | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 484.055          | Clintondale                      | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 548.116          | AWUG                             | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 631.023          | Constellation                    | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 1039.107         | Pernod Ricard                    | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 769.080          | Horticulture NZ                  | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 776.031          | Indevin Estates Limited          | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 778.092          | Irrigation NZ                    | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 909.042          | Longfield Farm Limited           | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 1218.042         | Villa Maria                      | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 1242.021         | Yealands Estate Limited          | 2      | 2       | Rule 2.4.1                 | Accept                                 |
| 509.250          | Fish and Game                    | 2      | 2       | Rule 2.4.1                 | Reject                                 |
| 1189.113         | Ngāi Tahu                        | 2      | 2       | Rule 2.4.1                 | Reject                                 |
| 479.159          | DOC                              | 2      | 2       | Rule 2.4.1                 | Reject                                 |
| 631.024          | Constellation                    | 2      | 2       | Standard and terms 2.4.1.1 | Accept                                 |
| 1242.022         | Yealands Estate Limited          | 2      | 2       | Standard and terms 2.4.1.1 | Accept                                 |
| 548.117          | AWUG                             | 2      | 2       | Heading 2.5                | Accept                                 |
| 1039.108         | Pernod Ricard                    | 2      | 2       | Heading 2.5                | Accept in part (relief is conditional) |

| Submission Point | Submitter                       | Volume | Chapter | Provision   | Recommendation |
|------------------|---------------------------------|--------|---------|-------------|----------------|
| 454.048          | K Loe                           | 2      | 2       | Rule 2.5.1  | Accept         |
| 509.251          | Fish and Game                   | 2      | 2       | Rule 2.5.1  | Accept         |
| 712.090          | Flaxbourne Settlers Association | 2      | 2       | Rule 2.5.1  | Accept         |
| 1004.030         | Oil Companies                   | 2      | 2       | Rule 2.5.1  | Accept         |
| 1124.052         | S MacKenzie                     | 2      | 2       | Rule 2.5.1  | Accept         |
| 431.052          | Wine Marlborough                | 2      | 2       | Rule 2.5.2  | Accept         |
| 454.049          | K Loe                           | 2      | 2       | Rule 2.5.2  | Accept         |
| 457.052          | Accolade                        | 2      | 2       | Rule 2.5.2  | Accept         |
| 462.014          | BRIL                            | 2      | 2       | Rule 2.5.2  | Accept         |
| 473.038          | Delegat Limited                 | 2      | 2       | Rule 2.5.2  | Accept         |
| 484.056          | Clintondale                     | 2      | 2       | Rule 2.5.2  | Accept         |
| 509.252          | Fish and Game                   | 2      | 2       | Rule 2.5.2  | Reject         |
| 631.025          | Constellation                   | 2      | 2       | Rule 2.5.2  | Accept         |
| 776.032          | Indevin Estates Limited         | 2      | 2       | Rule 2.5.2  | Accept         |
| 909.043          | Longfield Farm Limited          | 2      | 2       | Rule 2.5.2  | Accept         |
| 1218.043         | Villa Maria                     | 2      | 2       | Rule 2.5.2  | Accept         |
| 1242.023         | Yealands Estate Limited         | 2      | 2       | Rule 2.5.2  | Accept         |
| 454.050          | K Loe                           | 2      | 2       | Rule 2.5.3  | Accept         |
| 509.253          | Fish and Game                   | 2      | 2       | Rule 2.5.3  | Reject         |
| 712.091          | Flaxbourne Settlers Association | 2      | 2       | Rule 2.5.3  | Accept         |
| 1124.053         | S MacKenzie                     | 2      | 2       | Rule 2.5.3  | Accept         |
| 509.254          | Fish and Game                   | 2      | 2       | Rule 2.5.4  | Reject         |
| 1124.054         | S MacKenzie                     | 2      | 2       | Rule 2.5.4  | Accept         |
| 509.255          | Fish and Game                   | 2      | 2       | Rule 2.5.4  | Reject         |
| 454.051          | K Loe                           | 2      | 2       | Rule 2.5.4  | Reject         |
| 712.010          | Flaxbourne Settlers Association | 2      | 2       | Rule 2.5.4  | Reject         |
| 896.002          | L Taylor                        | 2      | 2       | Rule 2.5.4  | Reject         |
| 548.118          | AWUG                            | 2      | 2       | Heading 2.6 | Accept         |
| 479.160          | DOC                             | 2      | 2       | Rule 2.6.1  | Accept         |

| Submission Point | Submitter          | Volume | Chapter | Provision                                      | Recommendation                |
|------------------|--------------------|--------|---------|--|-------------------------------|
| 1189.114         | Ngāi Tahu          | 2      | 2       | Rule 2.6.1                                     | Accept                        |
| 509.256          | Fish and Game      | 2      | 2       | Rule 2.6.1                                     | Reject                        |
| 676.006          | Dairy NZ           | 2      | 2       | Rule 2.6.1                                     | Reject                        |
| 1039.109         | Pernod Ricard      | 2      | 2       | Rule 2.6.1                                     | Reject                        |
| 425.448          | Federated Farmers  | 2      | 2       | Rule 2.6.1 (recorded against 2.8.1.1 in error) | Accept                        |
| 509.257          | Fish and Game      | 2      | 2       | Rule 2.6.2                                     | Reject                        |
| 509.258          | Fish and Game      | 2      | 2       | Rule 2.6.3                                     | Accept                        |
| 1124.009         | S MacKenzie        | 2      | 2       | Rule 2.6.3                                     | Accept                        |
| 640.017          | D & C Robbins      | 2      | 2       | Rule 2.6.3                                     | Reject                        |
| 738.020          | G Robb             | 2      | 2       | Rule 2.6.3                                     | Reject                        |
| 935.017          | M Robb             | 2      | 2       | Rule 2.6.3                                     | Reject                        |
| 1039.110         | Pernod Ricard      | 2      | 2       | Rule 2.6.3                                     | Reject                        |
| 778.094          | Irrigation NZ      | 2      | 2       | Rule 2.6.3                                     | Reject                        |
| 455.032          | J Hickman          | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 456.032          | G Mehlhopt         | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 479.161          | DOC                | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 496.073          | Forest and Bird    | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 1089.019         | Rarangi Residents  | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 317.002          | D Barker           | 2      | 2       | Rule 2.6.4 (lodged against Policy 5.2.3)       | None pending hearing evidence |
| 317.003          | D Barker           | 2      | 2       | Rule 2.6.4 (lodged against Policy 5.2.3)       | None pending hearing evidence |
| 509.259          | Fish and Game      | 2      | 2       | Rule 2.6.4                                     | None pending hearing evidence |
| 1193.125         | Environment Centre | 2      | 2       | Rule 2.6.4 (lodged against Heading 2.6)        | None pending hearing evidence |
| 993.019          | FENZ               | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 1002.119         | NZTA               | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 1193.124         | Environment Centre | 2      | 2       | Rule 2.6.4                                     | Accept in part                |
| 1201.117         | Trustpower Limited | 2      | 2       | Rule 2.6.4                                     | Reject                        |
| 455.033          | J Hickman          | 2      | 2       | Rule 2.6.5                                     | Accept in part                |
| 456.033          | G Mehlhopt         | 2      | 2       | Rule 2.6.5                                     | Accept in part                |
| 479.162          | DOC                | 2      | 2       | Rule 2.6.5                                     | Accept in part                |

| Submission Point | Submitter                  | Volume | Chapter | Provision                            | Recommendation                   |
|------------------|----------------------------|--------|---------|--------------------------------------|----------------------------------|
| 509.260          | Fish and Game              | 2      | 2       | Rule 2.6.5                           | Reject                           |
| 1189.115         | Ngāi Tahu                  | 2      | 2       | Rule 2.6.5                           | Accept                           |
| 91.211           | MDC                        | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 479.189          | DOC                        | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 479.190          | DOC                        | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 962.155          | MFIA                       | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 990.049          | Nelson Forests Limited     | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 149.014          | PF Olsen Limited           | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 167.021          | Killearnan Limited         | 2      | 3       | Standard 3.3.6.2(g)                  | Accept                           |
| 962.156          | MFIA                       | 2      | 3       | Standard 3.3.6.2(g)                  | Reject                           |
| 990.050          | Nelson Forests Limited     | 2      | 3       | Standard 3.3.6.2(g)                  | Reject                           |
| 425.524          | Federated Farmers          | 2      | 3       | Standard 3.3.6.2(g)                  | Reject                           |
| 1238.027         | Windermere Forests Limited | 2      | 3       | Standard 3.3.6.2(g)                  | Reject                           |
| 318.009          | Reade Family Holdings      | 2      | 3       | Standard 3.3.6.2(g)                  | Reject                           |
| 505.028          | Ernslaw One Limited        | 2      | 3       | Standard 3.3.6.2(g)                  | Reject                           |
| 282.004          | Warren Forestry Limited    | 2      | 3       | Standard 3.3.6.2(g)                  | None – no specific relief sought |
| 1002.233         | NZTA                       | 2      | 25      | Definition of Diversion              | Accept                           |
| 454.063          | K Loe                      | 2      | 25      | Definition of River                  | Accept                           |
| 1002.251         | NZTA                       | 2      | 25      | Definition of River                  | Reject                           |
| 320.003          | G Leov                     | 2      | 25      | Definition of River                  | Reject                           |
| 425.421          | Federated Farmers          | 2      | 25      | Definition of River                  | Reject                           |
| 459.066          | Beef and Lamb              | 2      | 25      | Definition of River                  | Reject                           |
| 1002.251         | NZTA                       | 2      | 25      | Definition of Intermittently Flowing | Reject                           |
| 255.025          | W Lissaman                 | 2      | 25      | Definition of Intermittently Flowing | Reject                           |
| 256.002          | J Stevens                  | 2      | 25      | Definition of Intermittently Flowing | Reject                           |
| 425.406          | Federated Farmers          | 2      | 25      | Definition of Intermittently Flowing | Reject                           |
| 454.058          | K Loe                      | 2      | 25      | Definition of Ephemeral              | Accept                           |
| 1002.251         | NZTA                       | 2      | 25      | Definition of Ephemeral              | Reject                           |
| 425.396          | Federated Farmers          | 2      | 25      | Definition of Ephemeral              | Reject                           |

| Submission Point | Submitter                   | Volume | Chapter | Provision                               | Recommendation             |
|------------------|-----------------------------|--------|---------|---|----------------------------|
| 425.426          | Federated Farmers           | 2      | 25      | Definition of Surface Water             | Reject                     |
| 1192.095         | Fertiliser Association      | 2      | 25      | Definition of FMU                       | Reject                     |
| 873.172          | KiwiRail                    | 2      | 25      | Definition of Bore                      | Accept                     |
| 1004.049         | Oil Companies               | 2      | 25      | Definition of Bore                      | Accept                     |
| 1002.228         | NZTA                        | 2      | 25      | Definition of Bore                      | Accept                     |
| 1002.230         | NZTA                        | 2      | 25      | Definition of Dam                       | Accept                     |
| 1002.231         | NZTA                        | 2      | 25      | Definition of Damming (new)             | Reject                     |
| 873.174          | KiwiRail                    | 2      | 25      | Definition of Dewatering                | Accept                     |
| 1004.050         | Oil Companies               | 2      | 25      | Definition of Dewatering                | Accept                     |
| 1002.232         | NZTA                        | 2      | 25      | Definition of Dewatering                | Accept                     |
| 1140.073         | Sanford Limited             | 2      | 25      | Definition of Non-consumptive Use       | Reject                     |
| 401.240          | Aquaculture NZ              | 2      | 25      | Definition of Non-consumptive Use       | Reject                     |
| 426.236          | Aquaculture NZ              | 2      | 25      | Definition of Non-consumptive Use       | Reject                     |
| 425.391          | Federated Farmers           | 2      | 25      | Definition of Consumptive Use           | Reject                     |
| 91.149           | MDC                         | 2      | 25      | Definition of Municipal Water Supply    | Reject                     |
| 280.003          | NMDHB                       | 2      | 25      | Definition for water supplies (general) | Reject                     |
| 717.077          | Fulton Hogan                | 2      | 25      | Definition for Safe Yield               | Reject                     |
| 717.078          | Fulton Hogan                | 2      | 25      | Definition for Enhanced Transfer        | Reject                     |
| 431.069          | Wine Marlborough            | 3      | 6       | All                                     | Accept                     |
| 457.069          | Accolade                    | 3      | 6       | All                                     | Accept                     |
| 462.027          | BRIL                        | 3      | 6       | All                                     | Accept                     |
| 473.053          | Delegat Limited             | 3      | 6       | All                                     | Accept                     |
| 776.042          | Indevin Estates Limited     | 3      | 6       | All                                     | Accept                     |
| 910.003          | LW Irrigation               | 3      | 6       | All                                     | Accept                     |
| 1124.062         | S MacKenzie                 | 3      | 6       | All                                     | Accept                     |
| 1237.006         | Willowgrove Dairies Limited | 3      | 6       | All                                     | Accept                     |
| 769.136          | Horticulture NZ             | 3      | 6       | All                                     | Reject                     |
| 501.084          | Ngāti Kuia                  | 3      | 6       | All                                     | None – no relief requested |
| 196.001          | I Woolley                   | 3      | 6       | All                                     | None – no relief requested |

| Submission Point | Submitter                         | Volume | Chapter | Provision  | Recommendation                   |
|------------------|-----------------------------------|--------|---------|--|----------------------------------|
| 1039.136         | Pernod Ricard                     | 3      | 6       | All  | None – no relief requested       |
| 181.001          | Andebrook Farming Limited         | 3      | 6       | Schedule 1   | Accept in part                   |
| 342.002          | Willow Flat Farm Limited          | 3      | 6       | Schedule 1   | Accept in part                   |
| 359.038          | WilkesRM                          | 3      | 6       | Schedule 1   | Accept in part                   |
| 473.069          | Delegat Limited                   | 3      | 6       | Schedule 1   | Accept in part                   |
| 475.009          | J Timms                           | 3      | 6       | Schedule 1   | Accept in part                   |
| 479.272          | DOC                               | 3      | 6       | Schedule 1   | Accept in part                   |
| 484.073          | Clintondale                       | 3      | 6       | Schedule 1   | Accept in part                   |
| 746.001          | G Webb                            | 3      | 6       | Schedule 1   | Accept in part                   |
| 776.048          | Indevin Estates Limited           | 3      | 6       | Schedule 1   | Accept in part                   |
| 835.001          | Osgro Seed Service                | 3      | 6       | Schedule 1   | Accept in part                   |
| 909.080          | Longfield Farm Limited            | 3      | 6       | Schedule 1   | Accept in part                   |
| 970.019          | Middlehurst Station Limited       | 3      | 6       | Schedule 1   | Accept in part                   |
| 1201.159         | Trustpower Limited                | 3      | 6       | Schedule 1   | Accept in part                   |
| 1218.079         | Villa Maria                       | 3      | 6       | Schedule 1   | Accept in part                   |
| 1231.001         | Waihopai Valley Vineyards Limited | 3      | 6       | Schedule 1   | Accept in part                   |
| 1248.001         | J Fowler                          | 3      | 6       | Schedule 1   | Accept in part                   |
| 509.369          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Accept                           |
| 509.372          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Reject                           |
| 509.373          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | None – no specific relief sought |
| 509.374          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Reject                           |
| 509.376          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Reject                           |
| 509.370          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Reject                           |
| 509.013          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Reject                           |
| 509.375          | Fish and Game                     | 3      | 6       | Schedule 1 (General submission)                          | Reject                           |
| 631.056          | Constellation                     | 3      | 6       | Schedule 1 (All Class C)                                 | Reject                           |
| 1242.043         | Yealands Estate Limited           | 3      | 6       | Schedule 1 (All Class C)                                 | Reject                           |
| 896.001          | L Taylor                          | 3      | 6       | Schedule 1 (Flaxbourne FMUs) (lodged against Rule 2.1.1) | Reject                           |

| Submission Point | Submitter                       | Volume | Chapter | Provision  | Recommendation |
|------------------|---------------------------------|--------|---------|--|----------------|
| 896.003          | L Taylor                        | 3      | 6       | Schedule 1 (Flaxbourne FMUs) (lodged against Rule 2.5.1) | Reject         |
| 896.004          | L Taylor                        | 3      | 6       | Schedule 1 (Flaxbourne FMUs) (lodged against Rule 2.5.3) | Reject         |
| 359.039          | WilkesRM Limited                | 3      | 6       | Schedule 1 (Awatere FMU)                                 | Reject         |
| 548.140          | AWUG                            | 3      | 6       | Schedule 1 (Awatere FMU)                                 | Accept         |
| 509.377          | Fish and Game                   | 3      | 6       | Schedule 1 (Awatere FMU)                                 | Reject         |
| 712.035          | Flaxbourne Settlers Association | 3      | 6       | Schedule 1 (Flaxbourne FMUs)                             | Reject         |
| 509.378          | Fish and Game                   | 3      | 6       | Schedule 1 (Kaituna FMU)                                 | Reject         |
| 509.380          | Fish and Game                   | 3      | 6       | Schedule 1 (Lower Pelorus FMU)                           | Reject         |
| 509.379          | Fish and Game                   | 3      | 6       | Schedule 1 (Rai and tributaries FMUs)                    | Reject         |
| 509.381          | Fish and Game                   | 3      | 6       | Schedule 1 (Rai and tributaries FMUs)                    | Reject         |
| 509.382          | Fish and Game                   | 3      | 6       | Schedule 1 (Rai and tributaries FMUs)                    | Reject         |
| 509.383          | Fish and Game                   | 3      | 6       | Schedule 1 (Rai and tributaries FMUs)                    | Reject         |
| 1193.130         | Environment Centre              | 3      | 6       | Schedule 1 (Rai and tributaries FMUs)                    | Reject         |
| 509.384          | Fish and Game                   | 3      | 6       | Schedule 1 (Tuamarina FMU)                               | Accept in part |
| 357.003          | T Lasham                        | 3      | 6       | Schedule 1 (Rarangi Shallow FMU)                         | Reject         |
| 509.387          | Fish and Game                   | 3      | 6       | Schedule 1 (Wairau Aquifer FMU)                          | Reject         |
| 509.385          | Fish and Game                   | 3      | 6       | Schedule 1 (Waihopai River FMU)                          | Accept in part |
| 1201.160         | Trustpower Limited              | 3      | 6       | Schedule 1 (Waihopai River FMU)                          | Reject         |
| 93.016           | S and S White                   | 3      | 6       | Schedule 1 (Wairau River FMU)                            | Accept         |
| 509.386          | Fish and Game                   | 3      | 6       | Schedule 1 (Wairau River FMU)                            | Reject         |
| 992.098          | NZDF                            | 3      | 6       | Schedule 1 (Wairau Aquifer/Omaka River FMUs)             | Reject         |
| 91.085           | MDC                             | 3      | 6       | Schedule 1 (Waihopai FMU)                                | Accept         |
| 91.086           | MDC                             | 3      | 6       | Schedule 1 (Are Are FMU)                                 | Accept         |
| 91.103           | MDC                             | 3      | 6       | Schedule 1 (Wairau River FMU)                            | Accept         |
| 91.141           | MDC                             | 3      | 6       | Schedule 1 (Riverlands FMU)                              | Accept         |
| 91.142           | MDC                             | 3      | 6       | Schedule 1 (Wairau Aquifer FMU)                          | Accept         |
| 91.250           | MDC                             | 3      | 6       | Schedule 1 (Ōpaoa FMU)                                   | Accept         |



| Submission Point | Submitter                         | Volume | Chapter | Provision                       | Recommendation |
|------------------|-----------------------------------|--------|---------|---------------------------------|----------------|
| 91.251           | MDC                               | 3      | 6       | Schedule 1 (Lower Ōpaoa FMU)    | Accept         |
| 91.261           | MDC                               | 3      | 6       | Schedule 1 (Flaxbourne FMU)     | Accept         |
| 91.312           | MDC                               | 3      | 6       | Schedule 1 (Ōpaoa FMU)          | Accept         |
| 91.313           | MDC                               | 3      | 6       | Schedule 1 (Roses Overflow FMU) | Accept         |
| 457.073          | Accolade                          | 3      | 6       | Schedule 2                      | Accept         |
| 473.070          | Delegat Limited                   | 3      | 6       | Schedule 2                      | Accept         |
| 776.046          | Indevin Estates Limited           | 3      | 6       | Schedule 2                      | Accept         |
| 909.081          | Longfield Farm Limited            | 3      | 6       | Schedule 2                      | Accept         |
| 1201.161         | Trustpower Limited                | 3      | 6       | Schedule 2                      | Accept         |
| 1218.080         | Villa Maria                       | 3      | 6       | Schedule 2                      | Accept         |
| 288.002          | M Croad                           | 3      | 6       | Schedule 3                      | Accept in part |
| 297.002          | Red Barn Vineyards                | 3      | 6       | Schedule 3                      | Accept in part |
| 301.001          | Hawkswood Vineyards Limited       | 3      | 6       | Schedule 3                      | Accept in part |
| 1201.162         | Trustpower Limited                | 3      | 6       | Schedule 3                      | Accept in part |
| 1201.163         | Trustpower Limited                | 3      | 6       | Schedule 3                      | Accept in part |
| 124.001          | R Lindsay                         | 3      | 6       | Schedule 3                      | Accept in part |
| 342.001          | Willow Flat Farm Limited          | 3      | 6       | Schedule 3                      | Accept in part |
| 356.004          | Coatbridge Limited                | 3      | 6       | Schedule 3                      | Accept in part |
| 475.010          | J Timms                           | 3      | 6       | Schedule 3                      | Accept in part |
| 1248.002         | J Fowler                          | 3      | 6       | Schedule 3                      | Accept in part |
| 181.001          | Andebrook Farming Limited         | 3      | 6       | Schedule 3                      | Accept in part |
| 746.002          | G Webb                            | 3      | 6       | Schedule 3                      | Accept in part |
| 835.002          | Osgro Seed Service                | 3      | 6       | Schedule 3                      | Accept in part |
| 1231.002         | Waihopai Valley Vineyards Limited | 3      | 6       | Schedule 3                      | Accept in part |
| 359.036          | WilkesRM Limited                  | 3      | 6       | Schedule 3 (Awatere FMU)        | Reject         |
| 548.141          | AWUG                              | 3      | 6       | Schedule 3 (Awatere FMU)        | Accept         |
| 479.274          | DOC                               | 3      | 6       | Schedule 3 (Awatere FMU)        | Reject         |
| 509.389          | Fish and Game                     | 3      | 6       | Schedule 3 (Awatere FMU)        | Reject         |
| 509.398          | Fish and Game                     | 3      | 6       | Schedule 3 (Waihopai FMU)       | Reject         |

| Submission Point | Submitter                          | Volume | Chapter | Provision   | Recommendation          |
|------------------|------------------------------------|--------|---------|---|-------------------------|
| 253.001          | J Collett                          | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Accept                  |
| 254.001          | S Mackenzie                        | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Accept                  |
| 312.002          | J Fowler                           | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Accept                  |
| 315.001          | N Winter                           | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Accept                  |
| 1124.001         | S Mackenzie                        | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Accept                  |
| 1142.007         | Save the Wairau                    | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Reject                  |
| 345.001          | Willowhaugh Enterprises Limited    | 3      | 6       | Schedule 3 (Wairau River FMU) (lodged against Rule 2.1.1) | Accept                  |
| 509.399          | Fish and Game                      | 3      | 6       | Schedule 3 (Wairau River FMU)                             | Reject                  |
| 479.275          | DOC                                | 3      | 6       | Schedule 3 (Kaituna FMU)                                  | Reject                  |
| 509.390          | Fish and Game                      | 3      | 6       | Schedule 3 (Kaituna FMU)                                  | Reject                  |
| 479.276          | DOC                                | 3      | 6       | Schedule 3 (Opouri FMU)                                   | Reject                  |
| 509.391          | Fish and Game                      | 3      | 6       | Schedule 3 (Opouri FMU)                                   | Reject                  |
| 479.277          | DOC                                | 3      | 6       | Schedule 3 (Ronga FMU)                                    | Reject                  |
| 509.394          | Fish and Game                      | 3      | 6       | Schedule 3 (Ronga FMU)                                    | Reject                  |
| 509.395          | Fish and Game                      | 3      | 6       | Schedule 3 (Ronga FMU)                                    | Reject                  |
| 509.392          | Fish and Game                      | 3      | 6       | Schedule 3 (Pelorus FMU)                                  | None – no relief sought |
| 509.393          | Fish and Game                      | 3      | 6       | Schedule 3 (Pelorus FMU)                                  | Reject                  |
| 509.394          | Fish and Game                      | 3      | 6       | Schedule 3 (Rai FMU)                                      | Reject                  |
| 509.396          | Fish and Game                      | 3      | 6       | Schedule 3 (Tunakino FMU)                                 | Reject                  |
| 509.397          | Fish and Game                      | 3      | 6       | Schedule 3 (Tuamarina FMU)                                | Reject                  |
| 509.402          | Fish and Game                      | 3      | 6       | Schedule 3 (Taylor FMU)                                   | Reject                  |
| 91.257           | MDC                                | 3      | 6       | Schedule 3 (Taylor FMU)                                   | Accept                  |
| 91.249           | MDC                                | 3      | 6       | Schedule 3 (Taylor FMU)                                   | Accept                  |
| 91.258           | MDC                                | 3      | 6       | Schedule 3 (Ōpaoa FMU)                                    | Accept                  |
| 91.259           | MDC                                | 3      | 6       | Schedule 3 (Ōpaoa FMU)                                    | Accept                  |
| 509.403          | Fish and Game                      | 3      | 6       | Schedule 3 (Ōpaoa FMU)                                    | Reject                  |
| 509.400          | Fish and Game                      | 3      | 6       | Schedule 3 (Spring Creek FMU)                             | Reject                  |
| 264.001          | Walnut Creek Partnership (in part) | 3      | 6       | Schedule 3 (Spring Creek FMU)                             | Reject                  |
| 509.401          | Fish and Game                      | 3      | 6       | Schedule 3 (Omaka River FMU)                              | Reject                  |

| Submission Point | Submitter                           | Volume | Chapter | Provision                                | Recommendation |
|------------------|-------------------------------------|--------|---------|--|----------------|
| 992.099          | NZDF                                | 3      | 6       | Schedule 3 (Omaka River FMU)             | Reject         |
| 3.001            | N Wood                              | 3      | 6       | Schedule 3 (Southern Springs FMU)        | Reject         |
| 295.001          | Caythorpe Farms Limited             | 3      | 6       | Schedule 3 (Southern Springs FMU)        | Reject         |
| 268.001          | C Kirk                              | 3      | 6       | Schedule 3 (Coastal FMUs)                | Reject         |
| 357.002          | T Lasham                            | 3      | 6       | Schedule 3 (Rarangi Shallow FMUs)        | Reject         |
| 530.001          | AM and LM Campbell Family Trust     | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 174.001          | Palmer Vineyards Limited            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 175.001          | Welton Vineyards Limited            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 209.001          | O'Dwyers Farm Partnership Jones     | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 212.001          | O'Dwyers Farm Partnership Jones     | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 223.001          | A Sutherland                        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 140.001          | M Wickham                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 141.010          | Hall Family Farms Limited           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 143.001          | Starborough Farming Company Limited | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 144.001          | Wickham Family Trust                | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 145.001          | Ormond Nurseries Limited            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 154.001          | T McGrail                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 155.001          | M Hodges                            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 168.001          | G Michel                            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 169.001          | Grapelands Marl Limited             | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 171.001          | C & P Vickers                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 173.001          | Thymebank                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 176.001          | Stembridge Vineyards Limited        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 202.001          | Geisen Wines                        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 206.001          | M Bentley                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 213.001          | C Vickers                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 226.001          | Murphy Horticulture                 | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 234.001          | Cherrybank Orchard                  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 249.001          | J Jones                             | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |

| Submission Point | Submitter                        | Volume | Chapter | Provision                                | Recommendation |
|------------------|----------------------------------|--------|---------|--|----------------|
| 262.001          | K Surgenor                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 271.001          | Caythorpe Trustees Limited       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 288.001          | M Croad                          | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 296.001          | Kilravock Trust – Vineyards      | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 297.001          | Red Barn Vineyards               | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 300.001          | Hawkswood Vineyard Limited       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 303.001          | R Flowerday                      | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 341.001          | Neylon Vineyards                 | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 372.001          | M & P Bailey                     | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 375.001          | N Ham                            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 375.002          | N Ham (in part)                  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 377.001          | F Patchett                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 381.001          | Brentwood Farm Limited           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 382.001          | N Clouston                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 383.001          | Francis Estate Vineyards Limited | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 384.001          | Bures Vineyard Limited           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 386.001          | S Jones                          | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 387.001          | O'Dwyers Creek Vineyard Limited  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 389.001          | Thomson Family Trust             | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 390.001          | Marlborough Hort                 | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 391.001          | G J and R M Gane Family Trust    | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 392.001          | A Dawson                         | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 395.001          | Moore Family Trust               | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 396.001          | H Clifford                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 398.001          | S & M Clifford                   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 399.001          | Thymebank                        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 400.001          | Thymebank                        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 403.001          | Thymebank                        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 405.001          | Thymebank                        | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |

| Submission Point | Submitter   | Volume | Chapter | Provision                                | Recommendation |
|------------------|---|--------|---------|--|----------------|
| 402.001          | R Waghorn   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 406.001          | D Adams   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 407.001          | Walnut Block Wines Limited                            | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 408.001          | K Coles   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 409.001          | P Scott   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 410.001          | Awarua Trust - Dodson Trust                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 411.001          | Bird Family Trust                                     | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 412.001          | Kotare Vineyard                                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 413.001          | Herd Properties                                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 414.001          | Growing Horizon Limited                               | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 415.001          | Taequi Trust  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 416.001          | S Shadbolt  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 417.001          | P Murphy  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 461.001          | Brookside Holdings Trust and King Contracting Limited | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 871.001          | Kerseley Vineyard Trust                               | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 1267.001         | P Clifford  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 264.001          | Walnut Creek Partnership (in part)                    | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 491.001          | P James   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 141.011          | Hall Family Farms Limited                             | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 489.001          | Larges Rose Nursery Limited                           | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 204.002          | S & K Dempster  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 632.002          | Constellation   | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 359.004          | WilkesRM Limited                                      | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 457.072          | Accolade  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 457.074          | Accolade  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 473.071          | Delegat Limited                                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 776.045          | Indevin Estates Limited                               | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 844.001          | K & L Morgan  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |
| 909.082          | Longfield Farms Limited                               | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject         |

| Submission Point | Submitter                         | Volume | Chapter | Provision                                | Recommendation                  |
|------------------|-----------------------------------|--------|---------|--|---------------------------------|
| 966.003          | Marlborough Research Centre Trust | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject                          |
| 1159.003         | Spring Creek Vintners             | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject                          |
| 1218.081         | Villa Maria                       | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject                          |
| 431.087          | Wine Marlborough                  | 3      | 6       | Schedule 3 (Wairau Aquifer Springs FMUs) | Reject                          |
| 509.404          | Fish and Game                     | 3      | 6       | Schedule 4 (Branch River FMU)            | Reject                          |
| 1201.164         | Trustpower Limited                | 3      | 6       | Schedule 4 (Branch River FMU)            | Reject                          |
| 268.002          | C Kirk                            | 3      | 6       | Schedule 5                               | Reject                          |
| 492.001          | S and L Radich                    | 4      | Overlay | FMU Map 1                                | Reject                          |
| 91.112           | MDC                               | 4      | Overlay | FMU Map 1                                | Accept                          |
| 91.260           | MDC                               | 4      | Overlay | FMU Map 2 (Flaxbourne FMUs)              | Accept                          |
| 91.314           | MDC                               | 4      | Overlay | FMU Map 2 (Pelorus FMUs)                 | Accept                          |
| 91.315           | MDC                               | 4      | Overlay | FMU Map 2 (Boundary FMU)                 | Accept                          |
| 548.143          | AWUG                              | 4      | Overlay | FMU Map 2                                | None - no relief sought         |
| 375.002          | N Ham (in part)                   | 4      | Overlay | FMU Map 3                                | Reject                          |
| 1024.003         | P Rene                            | 4      | Overlay | FMU Map 5                                | None - no relief sought         |
|                  |                                   |        |         |  |                                 |
| 909.026          | Longfield Farm Limited            | 1      | 5       | Issue 5I                                 | None – error in recording point |
| 909.027          | Longfield Farm Limited            | 1      | 5       | Policy 5.9.1                             | None – error in recording point |
| 909.028          | Longfield Farm Limited            | 1      | 5       | Policy 5.9.2                             | None – error in recording point |
| 909.029          | Longfield Farm Limited            | 1      | 5       | Policy 5.9.3                             | None – error in recording point |
| 909.030          | Longfield Farm Limited            | 1      | 5       | Method 5.M.3                             | None – error in recording point |