

## 5. Allocation of Public Resources

### Introduction

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. 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.

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 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. 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.

### **Issue 5A – The diversity of water resources makes it difficult to achieve uniformity in water allocation and water use management regimes across the District.**

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Marlborough's geology, topography, land cover and climate vary dramatically across the district. This results in a diverse array of rivers and aquifers, evident in the size of catchments/aquifers, the length of rivers through the catchment, the spatial extent and depth of aquifers, the flow of water through the river/aquifer, water availability (and variation in water availability) and the natural and human use values that the waterbodies support. Although the objectives of the Marlborough Environment Plan (MEP) establish consistent objectives across all water resources, the means to achieve these outcomes will necessarily differ due to the above variation. It is therefore difficult to achieve consistent approaches to managing water resources across Marlborough. The lack of consistency can create frustration, especially for water users who access water from more than one water resource.

[RPS]

### **Objective 5.1 – Water allocation and water use management regimes reflect hydrological and environmental conditions within each water resource.**

If the management applied to the taking and use of water does not reflect the hydrological and environmental conditions that exist in each water resource, one of two things may happen: water users could be unnecessarily restricted in taking or using that water, or taking and use of water may result in adverse effects on the natural and human use values supported by the freshwater resource. These are inappropriate outcomes given the value of water in terms of its contribution to social, economic and cultural wellbeing and its life-supporting capacity. It is therefore essential that the management applied to any water resource is fit for purpose in order to achieve sustainable outcomes.

[RPS, R]

**Policy 5.1.1 – Define and use freshwater management units to apply appropriate management to the taking and use of water within each water resource.**

To ensure that the management applied to the taking and use of water is appropriate to the hydrological and environmental circumstances, 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. These freshwater management units are identified in the MEP. This approach also gives effect to the National Objectives Framework of the National Policy Statement Freshwater Management 2014 (NPSFM), which requires the Council to identify freshwater management units.

[RPS, R]

**Policy 5.1.2 – 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.**

Most water taken from rivers or aquifers involves a subsequent consumptive use of that water, predominantly for irrigation of crops. Section 14 of the RMA treats the subsequent use of water as a distinct activity to the taking of the water in the first place. This is because the two activities have different potential adverse effects on the surrounding environment. The adverse effects of taking water tend to relate to the direct or indirect effects on the natural and human use values supported by the waterbody from which the water has been taken and on other people taking water from that resource. The efficiency of water use is a relevant consideration for the use of water, especially as the resource from which the water has been taken approaches full allocation. In these circumstances, inefficient water use could potentially deprive other users from accessing the water resource. This policy records that the Council will require applications for water permits to authorise the taking of water and the use of water separately. The distinct adverse effects of each of the activities will be managed through the separate applications.

**Issue 5B – The taking, damming or diversion of water can compromise the life-supporting capacity of rivers, lakes, aquifers and wetlands.**

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Marlborough's freshwater bodies sustain a diverse range of natural and human use values. These values include the cultural and spiritual values of Marlborough's tangata whenua iwi; opportunities for passive and active recreation; the provision of habitat for indigenous flora and fauna, trout and salmon; a contribution to Marlborough's distinctive landscape and natural character; and the provision of a source of drinking water. In summary, the water that flows in rivers or that is contained in aquifers, lakes and wetlands sustains Marlborough's community and environment.

Marlborough's freshwater bodies are also utilised as an important source of water for a range of uses, including irrigation, industrial, commercial and frost fighting. This water use relies on the taking, damming and/or diversion of water. These activities all have the potential to change the characteristics of the flow or level of water in the waterbody. The taking of water removes water from the river, aquifer, lake or wetland, reducing flow or level. The diversion of water out of a river, and associated riverbed modifications, changes the natural flow pattern and can also reduce flow or level. The damming of water retains water behind the dam structure potentially changing the character of the waterbody upstream and downstream of the dam structure.

Although natural and human use values have some resilience to natural changes in water flow and/or level, the taking, damming and diversion of water have the potential to significantly change the flow or level characteristics of waterbodies. Such changes can adversely affect the natural and human use values that rely on the water in the waterbody. Those effects could be as a result of one person's activity or the cumulative effect of multiple water users. The effects could be

experienced in the short-term but also have the potential to become permanent, for example where there is a loss of habitat.

Any loss of natural and human use values, either short-term or long-term, will have an impact on the community and the intrinsic values of the environment.

[RPS, R]

**Objective 5.2 – 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.**

The natural and human use values supported by Marlborough’s freshwater bodies are important to retain given their contribution to the social, economic and cultural wellbeing of the community. In addition, the values can also have significance as a matter of national importance under Section 6 of the RMA, which must be recognised and provided for. Objective B1 of the NPSFM also requires the life-supporting capacity, ecosystem processes and indigenous species to be safeguarded. Objective 5.2 reflects the need to safeguard the life-supporting capacity of Marlborough’s freshwater bodies when managing the taking, damming or diversion of water.

**Natural and human use values**

[RPS, R]

**Policy 5.2.1 – 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.

[RPS, R]

**Policy 5.2.2 – Give priority to protecting the mauri of freshwater and freshwater flows/levels.**

Mauri is the term used by Marlborough’s tangata whenua iwi to describe the cultural concept that all natural resources have a lifeforce. This lifeforce (wairua) is derived from the physical attributes of the resource as well as the spiritual association iwi have with natural resources. Water is considered to be particularly significant to iwi in this regard as it sustains all life. Papā-tū-ā-nuku (Mother Earth) supports all people, flora and fauna, and waterbodies represent the blood vessels that supply nourishment to her, and through her, to all living things.

Marlborough’s tangata whenua iwi feel that there is a lack of understanding in the community and by decision makers that water has wairua. It is their view that land and water are therefore used and managed in ways that do not recognise the spiritual significance of the resource. As a result, the taking, damming or diversion of water can adversely affect the mauri of water. Of particular concern is the impact of reduced flow on the ability of each iwi to support traditional uses and values. Given the whakapapa link between Māori and water, the flows/levels in waterbodies are a

reflection of the health of the tangata whenua. Marlborough's tangata whenua iwi wish to avoid making any waterbody waimate (where water flow/level becomes so degraded that it loses its mauri).

Regard was had to protecting the mauri of freshwater and freshwater bodies when establishing the allocation frameworks and permitted activity rules contained in the provisions of this chapter.

[R]

**Policy 5.2.3 – 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.**

There are freshwater bodies in Marlborough that are in an unmodified state or a state close to unmodified. These water bodies retain high or very high natural character. In these circumstances, it is considered appropriate to preserve the natural character by preventing the taking, damming or diversion of water. This is reflected in regional rules that prohibit specific activities in these waterbodies that have significant values.

### Setting of environmental limits

[R]

**Policy 5.2.4 – 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.

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 flows/levels established in the MEP. The environmental flows/levels are intended to provide sufficient water to sustain the matters identified in (a) to (g).

[R]

**Policy 5.2.5 – 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.**

Water users will not be able to continue taking water once in a Freshwater Management Unit flows and/or levels reach the management flows/levels established in the MEP. Any such abstraction would result in an adverse effect on the life-supporting capacity of the waterbody. The policy will be implemented by way of a condition(s) of resource consent.

Water taken for domestic needs or animal drinking water is exempt from the policy given the contribution they make to sustaining the community.

[R]

**Policy 5.2.6 – 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).**

This policy establishes the basis on which management flows for rivers will be administered. A 24 hour average evens out short-term fluctuations in river flow and represents a pragmatic time period. Any shorter period is not administratively efficient as water users could be required to cease abstraction multiple times within a day while the flow fluctuates above and below the relevant management flow. Midnight to midnight reflects a working day and the timing allows water users to make decisions for managing their operations on the following day.

[R]

**Policy 5.2.7 – 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.**

Policy B1 NPSFM requires the Council to set environmental flows for all FMUs, which includes minimum flows. The Council monitors flow in rivers from which there is a demand for water, but does not necessarily monitor flow in rivers from which there is no or little demand. In some cases, this means that there is insufficient hydrological information and other relevant environmental data to establish a specific minimum flow for the river. In these circumstances, a default has been applied to meet the requirements of the NPSFM. The relevant minimum flow in these circumstances will be applied as the management flow in a condition of resource consent.

[R]

**Policy 5.2.8 – 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.**

The default minimum flow set for rivers in accordance with Policy 5.2.7 may not provide adequate protection to the natural and human use values supported by a river or may unnecessarily constrain the taking of water from the river. This policy provides an opportunity for any person to provide the Council with specific information that may justify a higher or lower minimum flow. In these circumstances it is appropriate that Policies 5.2.1 to 5.2.4 are utilised to make this judgement.

[R]

**Policy 5.2.9 – Have regard to the adverse effects of the proposed instantaneous rate of take from any river, except an ephemerally flowing river, if that rate of take exceeds or is likely to exceed 5% of river flow at any time.**

The minimum flows set for rivers manage the cumulative effects of taking water on natural and human use values. However, it remains possible for a take at a discrete location to have a significant adverse effect on flow immediately downstream of the point of abstraction. The risk is probably greatest in the upper part of a catchment due to lower flow that tends to occur in those reaches. 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 proposed rate of abstraction must be calculated to exceed 5% of the river flow at the point of abstraction. Flows in excess of this threshold are considered to have the potential to adversely affect natural and human use values. The policy only applies if the river is perennially or intermittently flowing.

[R]

**Policy 5.2.10 – 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.

Even though some rivers do not have surface flow at all times, there may still be circumstances where the flow connection is important in maintaining natural and human use values. For example, flow at a critical time of year may be important to facilitate the migration of indigenous fish, trout or salmon upstream or downstream. The policy allows the importance of flow connection to be considered when determining a resource consent application to take water from an intermittently flowing water body. The matters set out in (a) to (c) are those that are relevant to this consideration. Matters (a) and (b) relate to changes in the temporal and spatial extent of any disconnection, while matter (c) recognises that the intermittent flow may recharge connected aquifers. The changes created by the taking of water in this regard must be considered in light of any adverse effect on natural and human use values.

[R]

**Policy 5.2.11 – 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).

Policy B1 of the NPSFM requires the Council to set environmental levels for all FMUs, including minimum levels. This is a complex task for aquifers given the range of factors that influence rates of aquifer recharge and the difficulties determining the effect of abstraction on groundwater levels. This includes lags in response to either recharge and/or abstraction. This policy sets out the matters that have been considered in the process of setting the minimum levels in the MEP for FMUs dominated by aquifers. The minimum levels are intended to achieve the matters in (a) to (f) and therefore protect the sustainability of the FMUs in the long-term.

[R]

**Policy 5.2.12 – Set conductivity limits for Freshwater Management Units dominated by aquifers adjoining the coast to manage the potential for saltwater contamination of the aquifer.**

One of the potential effects of taking water from FMUs adjoining the coast is the potential within an aquifer to reduce water pressures at the interface between freshwater and salt water. Reduced pressures will result in a landward shift of the interface, creating the potential for salt water intrusion into the aquifer. Any salt water intrusion will adversely affect the ability to use the groundwater and is likely to result in long-term effects.

Conductivity is an indicative measure of the salt levels in groundwater. The setting of conductivity limits for FMUs adjoining the coast is intended to ensure the taking of water from aquifers does

not shift the interface. A warning system is also in place to detect signs of salt water intrusion. Limits will be imposed by way of conditions on resource consents, and due to the nature of the potential effects of abstraction in the coastal area, restrictions will be based on reducing actual water taken rather than that allocated through the resource consent.

### **Allocation of water**

[R]

**Policy 5.2.13 – 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.**

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).

[R]

**Policy 5.2.14 – 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.**

Policy B1 NPSFM requires the Council to set environmental flows for all FMUs, which includes allocation limits. The Council monitors flow in rivers from which there is a demand for water, but does not necessarily monitor flow in rivers from which there is no or little demand. In some cases, this means that there is insufficient hydrological information and other relevant environmental data to establish a specific allocation limit for the river. In these circumstances, a default has been applied to meet the requirements of the NPSFM. The relevant allocation limit in these circumstances will be applied as a condition of resource consent.

[R]

**Policy 5.2.15 – 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.**

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. 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.

[R]

**Policy 5.2.16 – 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.**

When monitoring of river flow occurs downstream of abstraction of water from the river, the effect of abstraction on river flow can be measured. In the Waihopai FMU and Awatere FMU, the monitoring of river flow occurs predominantly upstream of abstraction due to the absence of suitable flow monitoring sites further downstream. The management flow that applies in each FMU is the flow measured at the monitoring site, corresponding to an equivalent minimum flow that gives effect to Policy 5.2.4 downstream of abstraction. (Monitoring of flow in the Waihopai and Awatere Rivers over many years has allowed the establishment of a robust relationship between flows at the flow monitoring sites and gauged flows at other locations.)

Taking into account the allocation limits, abstraction downstream of the flow monitoring site can result in the non-attainment of the minimum flow that is sought to be achieved downstream. For this reason, the policy requires a proportional reduction in the allocations made by resource consent and consequent rationing of abstraction.

[R]

**Policy 5.2.17 – 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.**

At times of water restriction it is important that all of the community respond to the vulnerability of water resources. The potential impacts on the natural and human use values of waterbodies can be heightened at times of low flow and/or water levels. While restrictions are imposed through conditions of consents on non-urban water users, it is also appropriate that urban water users accessing municipal water supplies take measures to reduce water usage during times of low flows and/or levels. This policy will be implemented by the Council's Assets and Services Department as managers of the District's municipal water supplies.

## **Diversion of water**

[R]

**Policy 5.2.18 – Require resource consent for the diversion of water to enable the potential adverse effects of the diversion to be considered.**

The diversion of water from its natural course has the potential to adversely affect the natural and human use values supported by the waterbody and existing water users downstream of the diversion. At its worst, there may not be sufficient water downstream to sustain the values and uses. The nature, severity and significance of the potential adverse effects will be circumstantial and will depend on the nature of the waterbody and the type of diversion, as well as the natural and human use values and other uses currently supported downstream of the proposed diversion. To ensure that the potential adverse effects can be accurately identified and assessed, diversions of water will generally require resource consent. The specific circumstances of the proposed diversion can then be considered in the determination of any application for water permit.

[R]

**Policy 5.2.19 – 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;
- (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.

The matters listed in (e) to (g) are the potential adverse effects created by the diversion of water. The nature, severity and significance of the potential adverse effects are influenced by the matters listed in (a) to (d). The consideration of the matters listed in the policy will allow a determination to be made as to whether the proposed diversion of water is sustainable.

### **Damming of water**

[R]

**Policy 5.2.20 – 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 rivers.**

The damming of water to store water is a key response to temporary and seasonal shortages of water for irrigation purposes. Stored water provides a reservoir that can be accessed when other supplies are constrained or restricted. The policies and methods under Objective 5.8 focus on the positive effects of storing water.

Storage can involve the interception of runoff by damming ephemeral water bodies, the damming of intermittently or permanently flowing water bodies or the placement of abstracted water in purpose-built reservoirs on land. Dams constructed on riverbeds create the potential for a range of adverse effects (see Policies 5.2.21 and 5.2.22 for more detail) that may not be created when water is placed in reservoirs on land. For this reason, the construction of reservoirs on land is preferred to dams within the bed of rivers. However, the policy does not prohibit the construction of dams within the bed of rivers: applications for resource consent can still be made and will be considered having regard to Policies 5.2.21 and 5.2.22. However, district rules will create an incentive to utilise “out-of-river” dams for any water storage proposal.

A decision maker may also utilise this policy to consider alternatives to the use of dams within the bed of rivers. The extent to which this consideration is necessary will also rely on the significance of the potential adverse effects of the damming of water as assessed under Policies 5.2.21 and 5.2.22.

[R]

**Policy 5.2.21 – 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.**

Where a dam is proposed to be constructed in the bed of a river in spite of Policy 5.2.19, the policy identifies three matters to be provided for as part of the proposal. 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) as a result of flow modification. The nature and significance of the adverse effects created by the dam structure will vary depending on the proposed structure, and the nature of the river and the natural and human use values it supports. This policy allows these proposal and site specific factors to be taken into account.

This policy can also be applied to applications for resource consent to continue damming water (i.e. existing dams). Given the existing dam structure, there may be limits to the extent to which the matters in (a) to (c) can be provided for. For this reason, the policy direction is to have regard to the matters, rather than provide for them. However, opportunities to remedy or mitigate the existing adverse effects may exist and can be addressed via conditions imposed on the grant of the resource consent.

[R]

**Policy 5.2.22 – 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.**

In addition to the matters identified in Policy 5.2.21, there are a range of other potential adverse effects of damming water in the bed of a river or on land. These effects are identified in (a) to (e) of this policy. Regard will be had to these effects in determining a resource consent application to dam water.

### **Water shortage direction**

[R]

**Policy 5.2.23 – 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.**

Section 329 of the RMA allows the Council to issue a notice to apportion, restrict or suspend the taking, use, damming or diversion of water to address a serious temporary shortage of water. The policy identifies that in addition to the management applied through other policies in this chapter, the Council will also consider the option of using a water shortage direction. The circumstances of the shortage will have to be sufficient to justify the additional apportionment, restriction or suspension over and above that already applied in the rules of the MEP.

### **Other**

[R]

**Policy 5.2.24 – 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.**

Conditions will be imposed on the grant of new resource consents (whether to continue taking water or to take water for the first time) requiring abstraction to cease when limits set in the MEP are reached. The environmental flows and limits are established by rules in the MEP in accordance with Policies 5.2.4, 5.2.7 and 5.2.11.

[R]

**Policy 5.2.25 – 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.**

For many water resources, environmental flows or levels will be established for the first time. In other cases, environmental flows or levels established in previous planning documents, or on an ad hoc basis through the resource consent process in the absence of such plan limits, have been modified upon review. Where the ongoing exercise of those water permits will result in the non-attainment of Objective 5.2 due to the absence of limits or due to adherence to previous limits, then it is appropriate to consider imposing the limits set by the MEP. This will be achieved by undertaking a review of resource consent conditions in accordance with Section 128(1)(b) of the RMA. Such reviews can only occur once the rules setting the environmental flows or levels become operative. The policy signals that the reviews will occur within a set time period after the operative date.

Plan changes subsequent to the MEP becoming operative may also introduce new limits or may modify existing limits. The policy can also apply in this situation once the plan change becomes operative.

### **Issue 5C – Marlborough’s social and economic wellbeing relies on an adequate supply of freshwater.**

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Water is considered Marlborough’s most important natural resource. Over time our communities have come to rely upon freshwater in the district’s rivers, lakes, wetlands and aquifers. This freshwater, particularly from aquifers, is the source of the drinking water that sustains many of Marlborough’s rural and urban communities and provides an essential contribution to health standards within those communities. Freshwater also critically supports primary production in Marlborough, particularly for irrigation of land and crops in our dry climate, and is heavily used for commercial and industrial purposes. The economic value of that water to Marlborough’s economy was estimated at \$1.1 billion in 2011, 77% of which was contributed through primary production. Reductions in the supply of water would therefore have significant implications for Marlborough’s social and economic wellbeing.

[R]

#### **Objective 5.3 – Enable access to reliable supplies of freshwater**

For the reasons identified in Issue 5C, enabling access to freshwater in Marlborough’s rivers, lakes, wetlands and aquifers is one of the Council’s most important functions. A reliable and suitable water supply maintains community health standards and can result in significant improvements in primary production, commercial and industrial outputs. This objective is considered necessary in order to ensure Marlborough’s social and economic vitality.

[R]

#### **Policy 5.3.1 – 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.**

This policy establishes a hierarchy of water uses. The hierarchy reflects the relative value or significance of the uses listed. The term “uses” is broad and extends beyond consumptive use to include intrinsic values, ecosystem services and hydrological functions. The relative priority between the different uses listed in (a) to (e) have been used as the basis for allocating Marlborough’s freshwater resources. This does not mean that consumptive use is not valuable or significant, but the application of the policy ensures that critical uses are provided for as a priority.

Once those uses are provided for, water can then be made available for the consumptive uses listed in (c) to (e). The application of the policy does influence the reliability of water abstraction for consumptive use. Limits to protect the matters in (a) and (b) will be applied to consumptive water uses. However, those restrictions will be applied progressively, reflecting the relative priority of domestic and stock water supply, municipal water supply and other consumptive takes of water.

[R]

**Policy 5.3.2 – Provide information to water users about the amount of water available for abstraction and the circumstances under which it is available.**

The use of water involves users making investment decisions relating to the establishment, redevelopment, upgrading and maintenance of infrastructure required to take and use that water. It is therefore important that water users are provided with adequate information regarding the volume of water that is expected to be available for out-of-stream use, as this will influence those investment decisions. Rules will identify the volume of water available for consumptive uses in each freshwater management unit.

Equally important are the circumstances under which the water is available for taking. The application of Policies 5.2.4 to 5.2.11 will influence the reliability of the water supply. The consequent rules establishing environmental flows for rivers and levels for aquifers will prevent water from being taken in particular circumstances. It is anticipated that water users will utilise this information to make informed decisions on the level of risk they are prepared to adopt when making their respective investments.

The information provided to water users will be based upon historical river flow or aquifer level data. However, it is future rainfall that will determine the status of the river flow and aquifer levels, and therefore the availability of water for abstraction. Historical records provide a representation of the reliability of the water allocation but should not be treated as an accurate prediction due to natural variation in rainfall between seasons and within a season.

[R]

**Policy 5.3.3 – 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.**

The NPSFM requires the Council to set limits on the allocation of water. Previous planning instruments had established allocation limits for particular rivers and aquifers to ensure the sustainability of the water resource, protect the natural and human use values that the water resource sustains and maintain the reliability of supply for existing water users. These limits have been reviewed and, where appropriate, reconfirmed. Other water resources have not previously had allocation limits and these have now been set. Rules prevent the allocation of water beyond these limits.

For some rivers, two allocation classes are provided for, referred to as Class A and Class B. In many cases, the two classes are carried over from previous planning instruments. Class A water permits have a greater inherent reliability, due to their lower restrictions, than Class B permits. In some cases, a Class B allocation has been provided for the first time in order to provide for growth in demand (within the constraints of the water resource). These allocation classes provide for run-of-the-river irrigation and other instantaneous uses. Allocation moves sequentially through the two allocation classes.

Note that Policy 5.8.2 also provides for a Class C allocation for some water resources, specifically for storage purposes. Class C water can be applied for at any stage.

[R]

**Policy 5.3.4 – 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.**

Municipal water supplies perform the important function of providing water to residential, commercial and industrial activities in Marlborough's urban environments. Without the supply of water, the urban environments would cease to function. It is therefore critical for our social and economic wellbeing that our towns and small settlements have a reliable supply of water. This policy achieves this aim by providing an allocation specifically for the water needs of Blenheim, Picton, Havelock, Renwick and Seddon (including the Awatere community). The allocation volume is set out in rules. This policy also assists to implement Policy 5.3.1 by making municipal water supplies exempt from restrictions that would apply to other consumptive users.

[R]

**Policy 5.3.5 – Enable the take and use of water where it will have little or no adverse effect on water resources.**

The policy records a principle that users should be entitled to access water with relative ease if the provisions of the MEP determine the abstraction from the water resource to be sustainable. This policy could be applied in two circumstances. The first is through the application of permitted activity rules for the taking of water. Under Section 14 of the RMA, water use can only occur if provided for in a rule or through a resource consent. One of the key functions of the Council is therefore to enable sustainable abstraction of water via the use of permitted activity rules.

Access to water allocated through the provisions of the MEP should also be relatively straight forward. However, one of the potential effects of the taking of water is to adversely affect the reliability of existing water takes accessing the same resource, so called "interference effects." There may also be site specific effects of the taking of water on natural and human use values. For this reason, the rules still require a water permit for takes beyond the low volume uses enabled by permitted activity rules. The resource consent process will enable the adverse effects of any proposed take on another user or on natural and human use values to be taken into account. However, the issue of sustainable levels of abstraction have been determined through the application of Policies 5.2.4 to 5.2.16.

There may be circumstances in which it is appropriate for the Council to consider reducing the amount of water able to be taken under the permitted activity rules to assist it to manage extreme shortages of water. This would be achieved by a Water Shortage Direction issued under Section 329 of the RMA. Any such direction would be issued to address the potential for abstraction authorised by permitted activity rule to adversely affect the resource, the natural and human use resources supported by the resource and/or the ability of people to continue taking essential water from the resource (albeit at a lower rate).

[R]

**Policy 5.3.6 – 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.**

This policy establishes the basis on which freshwater will be allocated within any class. This continues the approach utilised under water allocation and use regimes in previous planning documents. Once an allocation limit is reached, then no further water can be allocated within the class. However, water within the class can become available to allocate again. Other provisions in the MEP address that situation (see Issue 5I).

[R]

**Policy 5.3.7 – Allocate water to irrigation users on the basis of a nine in ten year water demand for the crop/pasture.**

The irrigation of crops and pasture is designed to offset shortages of soil-water experienced over the drier months of the year. The aim is to provide for the water demand of the plant by supplementing rainfall. Crop and pasture demand for water therefore varies season to season

and within each season, depending on the amount of rainfall. This policy establishes the basis for which irrigation water will be allocated. Allocating on a “nine years in ten” basis fully meets irrigation requirements on the property nine years out of ten and meets a large part of requirements in the very driest years. This standard recognises that it is difficult to provide for absolute reliability given the potential for extreme fluctuations in climate, but nonetheless seeks to provide a high degree of reliability. This reflects the value of the crop/pasture to the grower. It also reflects the fact that the higher the reliability standard is set, the smaller the total area of land that can be irrigated within the allocation limits set for the resource. The “nine in ten” reliability standard is a balance between the value of irrigation to individual growers and its value to Marlborough collectively.

[R]

**Policy 5.3.8 – 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.

The policy provides criteria for determining water permit applications to continue taking water from the same water resource. If the circumstances set out in (a) to (d) apply, then the existing take and use of water should be granted. Depending on how other policies in the MEP apply to the take, it may be granted with different conditions.

[R]

**Policy 5.3.9 – Express any allocation of water for irrigation purposes on the following basis:**

	Take of surface water	Take of groundwater	Use of water , except for the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit.	Use of water – Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit
<b>Quantity</b>	m <sup>3</sup>	m <sup>3</sup>	m <sup>3</sup>	m <sup>3</sup>
<b>Period</b>	24 hours	Annual	Monthly; and Annual	Annual
<b>Method of determination</b>	The maximum daily rate of take shall not exceed the daily volume that fully meets irrigation demand on 90% of	The maximum rate of take (m <sup>3</sup> /year) in a July-June year shall not exceed the volume that	The maximum volume of irrigation water use in a calendar month shall be the monthly volume that fully meets irrigation demand in	The maximum volume of irrigation water use in a July-June year shall be the volume that fully meets

	Take of surface water	Take of groundwater	Use of water , except for the Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit.	Use of water – Brancott Freshwater Management Unit, Benmorven Freshwater Management Unit or Omaka Aquifer Freshwater Management Unit
	the days in the irrigation season, as calculated by using IrriCalc with climate data for the period 1 July 1972 to 30 June 2014.	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.	90% of those months in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc; and  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.	irrigation demand in 90% of July-June years in the period 1 July 1972 to 30 June 2014, as calculated by using IrriCalc.

This policy sets out how allocations will be expressed on water permits authorising the taking and use of water. A condition will be applied to water permits authorising the taking of surface water, the taking of groundwater and the use of water, setting out the specific allocation for each activity. The application of the policy will ensure consistency in the expression of conditions. Such consistency will assist to reduce the potential for conflict between water users.

[R]

**Policy 5.3.10 – 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.**

The infrastructure installed for irrigation from surface water resources is not necessarily set up to operate on a 24 hour basis. In some cases, the authorised allocation is applied over a shorter period (i.e. at an instantaneous rate in litres per second that exceeds the instantaneous equivalent of the maximum daily allocation). This policy provides consent holders with the flexibility to apply the allocated water effectively at this higher rate, provided that the volume of water used over the day does not exceed the daily maximum established through Policy 5.3.9. The higher instantaneous rate of take may occur either at any point over the day or for a proportion of the day. In either case, an exceedance of 20% is considered fair and reasonable in this regard. The limit of 20% also assists to manage interference effects between users and adverse effects on the natural and human use values supported by the river. The irrigation day is set from midnight to midnight.

[R]

**Policy 5.3.11 – 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.**

A site specific adverse effect of taking water is the potential to influence the efficiency of other water takes from the same resource. The rate of abstraction of water from a river or the method of abstraction may reduce the flow of water past an existing intake or divert water from the intake. Similarly, pumping groundwater from an aquifer draws down aquifer levels in proximity to the bore. Takes located in close proximity to the proposed intake/bore are at greatest risk in this respect. The potential for such “interference effects” exists in spite of the limits set in the MEP.

This policy signals that such adverse effects can be managed by limiting the instantaneous rate of take. Any such limit would be imposed, where necessary, as a condition of the water permit. The potential for any interference effects and the scale of those effects will have to be assessed for any water permit application.

Policy 5.3.12 provides for the construction of bores as a permitted activity. Conditions are set in the relevant rule requiring separation distances between bores in order to further reduce the potential for “interference effects.” The separation distance makes it less likely that the drawdown in aquifer level caused by pumping will affect the water level in another bore in the vicinity.

[R]

**Policy 5.3.12 – Enable the construction of bores while recognising that this policy does not authorise the taking of water for any purpose other than bore testing.**

Bores are used as the means to access water from Marlborough’s aquifers. 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 to be accessed. Although the construction of a bore may be a permitted activity, the abstraction of groundwater for subsequent use may require a water permit (depending on the status of taking water under the rules).

[R]

**Policy 5.3.13 – 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.**

It is not equitable to utilise Policy 5.3.11 to protect the water supply from bores that do not fully penetrate the aquifer. Any such limit would penalise the resource consent applicant for bores that are effectively too shallow. The effect of the policy is that the owner of a shallow well will have to deepen the well or construct a new well in order to protect the reliability of their own water supply.

[R]

**Policy 5.3.14 – 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.



This policy assists decision makers to determine the appropriate duration of water permits. The circumstance in (a) reflects a desire by water users for longer water permit terms in order to provide the certainty required to make long-term investment decisions. It also recognises that there is certainty regarding the sustainability of water abstraction from a FMU when limits are set by rules in the MEP. In this circumstance, durations of 30 years are generally considered appropriate.

The circumstances in (b) and (c) reflect situations where there is uncertainty regarding the sustainability of abstraction, either because the resource is over-allocated or because there is a lack of knowledge to set specific environmental flows/levels. A shorter term is an effective means of managing this uncertainty as it allows the sustainability of the existing abstraction to be reassessed against the provisions of a reviewed MEP after its current ten year life.

The policy also recognises that there may be other factors involved with a specific proposal that influence the determination of appropriate duration.

[R]

**Policy 5.3.15 – Require land use consent for the planting of new commercial forestry in flow sensitive areas.**

Afforestation of land currently in pasture has the potential to reduce water yield in the relevant catchment with consequential effects on the surface water hydrology. Water permits have been granted through the provisions of the MEP and through previous planning documents, with reliabilities based on historical surface water hydrology. If water yield is reduced by afforestation in the long-term, it creates the potential to reduce the flow reliability that water users have come to depend upon. This could mean that water users become subject to restrictions more frequently than they have been to date.

The water resources most at risk are south of the Wairau River and specific Afforestation Flow Sensitive Sites are identified. The identified land receives low rainfall (in comparison to north of the Wairau River) and contributes runoff to smaller catchments. These factors make the water resource supplied by runoff from the land more vulnerable to changes in water yield.

The policy does not apply to existing commercial forestry or the replanting of that forest following harvest, as the effects of this forestry on water yield are part of the existing environment.

[R]

**Policy 5.3.16 – 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%.**

The policy provides guidance to determine land use consent applications required as a result of Policy 5.3.15. The threshold protects the reliability of supply for existing water permit holders by limiting the extent of flow modification. The effects of reductions in water yield on reliability are greatest at times of low flow and for this reason the seven day mean annual low flow is used in the policy. It is also important that any assessment of environmental effects considers the cumulative effects of afforestation within a catchment and any opportunities for adverse effects on water yield to be remedied or mitigated.

The establishment of commercial forestry prior to the notification of the MEP was permitted in most situations under the provisions of the previous Wairau/Awatere Resource Management Plan. 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 established after 9 June 2016.

## **Issue 5D – Many water resources are fully allocated or are approaching full allocation, inhibiting the opportunity to provide for further demand for water resources.**

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Amounts of water available for abstraction (sometimes called a class) were established between 1995 and 1997 for specific rivers and aquifers. Allocation has progressed relatively smoothly and people have been able to access water reasonably easily through the water permit process. For the Awatere, Wairau and Waihopai Rivers this has involved allocation moving sequentially through a tiered system of allocation classes.

Allocations are approaching or have reached allocation limits for a number of rivers. The NPSFM requires the Council to avoid any future over-allocation; i.e. the Council cannot continue to allocate beyond the limits established by the MEP. Without further intervention, reaching a state of full allocation will seriously affect opportunities for future economic growth. Marlborough's primary and secondary industries rely on freshwater and any constraint on future supply will curtail economic growth in these industries.

[R]

### **Objective 5.4 – Improve the utilisation of scarce water resources.**

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 gain access to water is found to meet future demand.

[R]

#### **Policy 5.4.1 – The lapse period for water permits to take water shall be no more than two years.**

The statutory lapse period to commence the exercise of a resource consent is five years. This is a considerable period of time to have water allocated but potentially not used. With increasing scarcity of freshwater resources, it is appropriate to have a shorter lapse period. This policy records that the appropriate lapse period is two years, as this period represents a reasonable balance between providing sufficient time for a water permit holder to arrange necessary infrastructure and avoiding a situation of other potential users being denied access to reliable water supplies through the consent holder's inaction. The allocation status of the water resource will be taken into account in terms of considering any applications to extend a lapse period under Section 125(1A) of the RMA.

[R]

#### **Policy 5.4.2 – 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.**

Section 125(1A)(a) specifies that a resource consent does not lapse if the consent is "given effect to." There was uncertainty during the administration of the previous resource management plans as to what this term meant in the context of a water permit. To avoid confusion in the future, this policy clearly describes that a water permit is given effect to when, in conjunction with Policy 7.4, water is taken from the freshwater resource, the take is measured via an appropriate meter and the water is used for the purpose in which it was granted.

[R]

#### **Policy 5.4.3 – The lapse period for water permits to use water shall be at least ten years.**

A user must, as a minimum, hold a water permit to use water (a water permit to take water may not be necessary depending on the method of water distribution). Opportunities to utilise enhanced transfer of water permits may be limited in time. It would therefore be inappropriate to lapse the water permit to use water on the basis that no such opportunity arose in the lapse period. For this reason, a long lapse period of ten years is signalled for water permits to use

water by this policy. This will ensure that a system of enhanced transfer has the greatest opportunity to function effectively over time.

[R]

**Policy 5.4.4 – 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.**

This policy seeks to enable the movement of water between users within a freshwater management unit so that more efficient utilisation of the available water can occur. Through the monitoring of water use authorised by resource consent, it is evident that the actual demand for water is usually less (sometimes considerably so) than the volume of water allocated via the water permit. This is water that could be utilised by other existing users or by potential users that are unable to access water due to a state of full allocation.

[R]

**Policy 5.4.5 – 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.**

An enhanced transfer system was not included in the MEP when it was publically notified on 9 June 2016. However, the Council intends to introduce such a system to the MEP through the plan change provisions under First Schedule of the RMA at a later date. Under a system of enhanced transfer of water permits, water users would have the flexibility to develop their own transfer arrangements. In these circumstances, there is a need for appropriate protections to be put in place to make a system of enhanced transfer work efficiently and effectively for water users, as well as to protect the reliability of the water resource for existing users. The matters (a) to (f) effectively establish ground rules under which enhanced transfer can occur. In doing so, this policy gives effect to Policy B3 of the NPSFM. The matters listed above will form the basis of permitted activity standards for the transfer of water permits.

[R]

**Policy 5.4.6 – Provide water users and the community with daily water use information for fully allocated water resources.**

This policy commits the Council to providing daily water use information for uses authorised by way of resource consent occurring in fully allocated water resources. The provision of such information will be particularly important when the enhanced transfer system identified in Policy 5.4.5 is introduced to the MEP as this will enable opportunities for the transfer of water between users to be identified by those users.

**Issue 5E – 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.**

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The NPSFM defines over-allocation of water resources as where a water resource has been allocated beyond a limit or is being used to a point where a freshwater objective is no longer being met. Allocation limits are established for water resources through the provisions of the MEP. Where the cumulative abstraction of water by all water users exceeds the allocation limits, the abstraction creates the potential for significant adverse effects. This is because the limits represent the extent of safe yield from the river or aquifer. Water abstracted in excess of the safe yield is likely to not only adversely affect flows in rivers and levels in aquifers, but also the various uses and values that depend upon those river flows and aquifer levels, including abstractive uses. In summary, such abstraction is unsustainable as it threatens the life-supporting capacity of the water resource and, where the adverse effect is long-term, the ability of the water resource to sustain future generations.

Other provisions of the MEP seek to ensure that allocation limits are not exceeded in the future. However, in five aquifers the allocation of water to users through water permit allocations has already exceeded safe yield. These aquifers are identified in Policy 5.5.1. In the Southern Valleys, actual use under those paper allocations has also exceeded safe yield, resulting in significant drawdown of aquifer levels and adverse effects on water users.

[R]

**Objective 5.5 – Phase out any over-allocation of water resources.**

Objective B2 and Policy B6 of the NPSFM require the Council to phase out over-allocation of water resources. Objective 5.5 of the MEP is designed to give effect to this requirement.

[R]

**Policy 5.5.1 – 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.**

The water resources set out in the policy have been over-allocated with respect to limits set out in the MEP. The policy provides certainty with respect to the scope of the application of subsequent policies to address over-allocation.

[R]

**Policy 5.5.2 – No new water permit will be granted authorising additional abstraction from the water resources identified in Policy 5.5.1 after 9 June 2016.**

Water resources identified as over-allocated should not be placed under further stress by additional demand. Any additional demand will not only make existing or potential adverse effects of over-allocation worse, it will make the community's objective of addressing over-allocation more challenging. For this reason, this policy directs that no further water permits to take water from the water resources identified in Policy 5.5.1 should be granted after 9 June 2016 (the date of notification of the MEP). This policy will be implemented by a prohibited activity rule. For the avoidance of doubt, the policy does not apply to any application to continue taking water from the water resource in the same circumstances as previously authorised.

[R]

**Policy 5.5.3 – Avoid any additional diversion of water from over-allocated water resources for use on land in other freshwater management units.**

Over time, many water users have been innovative in addressing the shortage of water in an area by diverting available water from other water resources. However, diverting water from an over-allocated water resource to another freshwater management unit will not result in sustainable outcomes and is to be avoided.

[R]

**Policy 5.5.4 – 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.**

This policy sets out the means by which the over-allocation of groundwater from the Wairau Aquifer and Riverlands Aquifer will be resolved. The application of the policies to achieve efficient water use (see Policies 5.7.1 to 5.7.6) will reduce the cumulative allocation of water from the Wairau Aquifer over time. By 2025 it is expected that the total allocation authorised by resource consent will reflect the allocation limit. This policy will assist to give effect to Policy B6 of the NPSFM.

[R]

**Policy 5.5.5 – 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.**

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, is considered to be the most equitable means of reducing total allocation of water from these FMUs. 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.

A degree of reduction of allocation has already occurred prior to the notification of the MEP through the processing of some water permits to continue taking water from these resources. Some resource consent applicants have also applied to take less water than the guideline rate under the provisions of the WARMP/MSRMP. These actions will be taken into account in terms of the application of the policy to these specific water permits.

The reductions will be calculated and applied by reviewing the conditions of water permits in accordance with Section 128(1)(b) of the RMA.

Reflecting Policy 5.3.1, no proportional reduction of allocation has been applied to takes used to supply stock or domestic water.

This policy will assist to give effect to Policy B6 of the NPSFM.

**Issue 5F – The taking of groundwater in proximity to rivers can individually or collectively reduce flows in the rivers.**

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For most of Marlborough's water resources, there is exchange of water between rivers and underlying groundwater. Because of this interaction, the taking of groundwater can reduce the flow in the river, termed a "stream depletion" effect. The degree of stream depletion will vary

depending on the rate of groundwater pumping, the distance between the point of abstraction and the river and the ability of water to move through the sediments on the river bed and through the adjoining soils. Where groundwater abstraction causes stream depletion effects, there is the ability for the same effects identified in Issue 5B to be created, either in isolation or in combination with other groundwater and/or surface water takes.

[R]

**Objective 5.6 – Ensure that the taking of groundwater does not cause significant adverse effects on river flow.**

Natural and human use values supported by rivers are flow dependent. Any reductions in river flow caused by groundwater abstraction at times of low flow have the ability to adversely affect the natural and human use values supported by the river. As for direct takes of surface water, the objective with respect to groundwater takes that have stream depletion effects is to maintain the natural and human use values supported by flow in the river.

[R]

**Policy 5.6.1 – 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.**

In a Marlborough context, an aquifer is a significant body of water stored in the unconsolidated materials below the ground surface. The groundwater occupies the pore space between sand, silt or gravel particles. In many cases, the groundwater associated with rivers does not involve the storage of a significant volume of water and the groundwater is therefore not recognised as an aquifer. In these circumstances, the taking of groundwater has greater potential for stream depletion effects.

This policy directs that the potential adverse effects of groundwater takes will be managed in the same manner as surface water takes. The effect of the policy is two-fold:

- any take of groundwater will be included within the allocation provided from the river; and
- the environmental flow set for the river will apply to any groundwater take.

Aquifers are excluded from the policy as either the volume of stored groundwater has the potential to buffer the effects of groundwater abstraction on flows in rivers or there is sufficient physical separation between a river and underlying aquifer so that no stream depletion effect is caused.

[R]

**Policy 5.6.2 – 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.**

As the slope of the Wairau Plain flattens, groundwater returns to the surface in the form of springs. The largest of these spring systems are Spring Creek, Fultons Creek and Murphys Creek. Although not retaining outstanding natural character, these rivers are still highly valued by the community for the clear water that flows in them and in the case of Fultons Creek and Murphys Creek, the provision of a baseflow of water to sustain the Taylor River during the summer months.

The taking of groundwater in close proximity to spring-fed streams has the potential to cause stream depletion effects. The greatest risk is that abstraction could cause a downstream shift in the position of the headwaters. In order to preserve the remaining natural character of these spring-fed streams and to maintain the amenity values that they support, this policy identifies that groundwater takes close to spring-fed streams will be subject to specific management.

A network of bores has been established across the spring belt of the Wairau Plains to monitor aquifer levels. There is a very good relationship between aquifer level and the position of headwaters of the spring-fed streams and the subsequent flows in the streams. Aquifer environmental levels have been established by regional rule at each of the monitoring bores. The taking of groundwater in the relevant FMU must cease when the level of water in the Wairau Aquifer falls to the specified level.

**Issue 5G – 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.**

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Inefficient allocation and use of water is potentially a significant issue in Marlborough, given that many water resources are at or are approaching full allocation. As described in Issue 5D, once allocation limits have been reached, the Council is unable to continue allocating water to other users. Allocating and/or using more water than is required for a particular use represents a lost opportunity for other potential users to gain access to water in a limit based management system. This can occur when water is allocated to a user but is not utilised or is lost through wasteful distribution/application methods. There will be cumulative social, cultural and economic effects from inefficient allocation and use of water once limits have been reached. In particular, as Marlborough relies on water for primary production and the processing of crops, inefficient allocation and/or use of water limits the opportunities for economic growth and employment.

[R]

**Objective 5.7 – The allocation and use of water do not exceed the rate or volume required for any given water use.**

Water is one of Marlborough’s most significant natural resources. There is a collective community responsibility to ensure that the greatest social, cultural and economic benefit can be derived from the water available for consumptive use. Efficient allocation and use of water has an important role to play in this respect, as it ensures that water is put to productive use.

[R]

**Policy 5.7.1 – 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.**

This policy identifies that the use of water is a separate activity to the taking of water from a water resource, with the potential for distinct positive and adverse effects. By requiring a separate water permit to authorise the use of water, those effects can be recognised and, where necessary, appropriately managed through the processing of the application in accordance with the provisions of the MEP.

The policy also establishes separate classes of use. This distinction between different uses allows other policies of the MEP to be applied to those uses, including Policy 5.7.5.

[R]

**Policy 5.7.2 – To allocate water on the basis of reasonable demand given the intended use.**

One of the ways in which efficient use of water can be achieved is by ensuring that the allocation to the user does not exceed that which is reasonably required for the use. In the case of irrigation, the Council will provide users with a tool, “IrriCalc,” to estimate water demand for the crop, based on the soil type(s) and climate that exist at the property.

This policy assists to give effect to Policy B4 of the NPSFM.

[R]

**Policy 5.7.3 – 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.**

Irrigation is used to replace any deficit in soil moisture in order to maintain crop health and growth. Climate and the properties of the soil in which the crop is growing are the main determinants of water availability and therefore irrigation demand. In terms of soils, Plant Available Water (the measure of the difference between field capacity and plant wilting point) is a key influence on crop water demand. The Plant Available Water varies according to soil type.

“IrriCalc” uses existing soils information and modelled climate data to provide estimates of water use for all crop types. To ensure efficient use of water for irrigation, the Council will generally not grant water permits to use water for irrigation purposes at a rate that exceeds the reasonable use calculation provided by “IrriCalc.”

Past methods of determining water use allocations have not accounted for the variation in water demand when growing the same crop in different locations and conditions. The use of “IrriCalc” in the manner described above will therefore result in improvements in the efficient allocation and use of water and assist to give effect to Policy B4 of the NPSFM.

The policy recognises that the calculation is a modelled calculation and may not accurately estimate reasonable use in all circumstances. For this reason, the policy provides resource consent applicants the opportunity to provide property specific information on the factors that influence crop demand that may demonstrate a higher rate of water use than IrriCalc would otherwise indicate. Examples could include historical measurement of rainfall or the investigation of soil type and plant available water on the property. Regard can be had to such information in determining an appropriate allocation on water permits to use water.

[R]

**Policy 5.7.4 – 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.**

All water takes authorised by way of resource consent are required to be accurately metered. The water use information gained through the measurement of water take and use is important for:

- establishing compliance with the water allocations provided by water permits and the conditions imposed on water take and use (e.g. compliance with water restrictions);
- enabling cumulative rates of take within a freshwater management unit to be accounted for (and reported) as required by Policy CC1 of the NPSFM;
- indicating the extent of water availability at any point in time; and
- establishing or refining a relationship between cumulative rates of water use and the water resource response. In this way, water use information collected through accurate metering assists the Council to review limits set in accordance with provisions of the MEP and refine those limits where necessary.

The policy establishes the requirements with respect to measurement of water takes in Marlborough. Data loggers provide accurate water take records and their use avoids the need for manual readings. The use of telemetry ensures the transfer of recorded data to the Council in a timely fashion. These efficient means of recording and transferring water take information will also assist to enable the transfer of water permits between users, as provided for under Policy 5.4.4. By providing users with real time information on water user relative to limits, metering establishes the extent of water availability at any point in time.



[R]

**Policy 5.7.5 – 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.**

Reflecting Policy 5.7.1, each different category of water use authorised by water permit must be measured. This policy helps to give effect to Policy CC1 of the NPSFM, which requires the Council to account for the proportion of water taken for each major category of use. Water use information is requested by Central Government on an annual basis for the purposes of national reporting. The categories in the policy reflect the nature of those requests.

[R]

**Policy 5.7.6 – 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.**

The way in which water is distributed and/or applied to the crop can influence the technical efficiency of water use. Methods or practices of distribution and/or application that are wasteful (relative to crop demand) are inappropriate within a limit-based water management system. When considering a water permit application to use water, it is appropriate that the Council has regard to the nature of the irrigation system to ensure that wasteful water use is avoided. The use of technology and best irrigation practice will be important factors for resource consent applicants to address in their applications. Industry groups may produce guidance material that assists with this task.

[R]

**Policy 5.7.7 – Allocate water for domestic needs on the basis of five cubic metres per household per day.**

Rules specify that a reasonable abstraction for an individual's domestic needs is five cubic metres per household per day. However, there are water permits authorising the supply to more than one household that enable the taking of water at higher rates. The exercise of these water permits effectively represents an inefficient use of water. When applications to continue taking domestic water are processed in these circumstances, the allocation provided will be reduced from the previously authorised level to the equivalent of five cubic metres per household per day.

This reduction in allocation will help the Council to address over-allocation in accordance with Policy B6 of the NPSFM while still providing sufficient water to the consent holder for domestic needs. This outcome will ensure that the over-allocation of the water resource is addressed equitably across all water users.

This policy assists to give effect to Policy B4 of the NPSFM.

## **Frost fighting**

[R]

**Policy 5.7.8 – 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.**

Although the use of water for frost fighting may be efficient for protecting crops, it involves significant volumes of water at very high rates of use (compared to irrigation). For this reason, the use of water for frost fighting is not considered efficient, especially in circumstances where water resources are fully allocated or are approaching full allocation. There are alternative methods of frost fighting that do not involve the use of water (e.g. wind machines) and the policy identifies that these methods should generally be used in preference. However, the policy also recognises that there are circumstances where alternative methods of frost protection are not effective and in these cases the use of water can be considered.

This policy assists to give effect to Policy B4 of the NPSFM.

[R]

**Policy 5.7.9 – 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.**

This policy assists to give effect to Policy B4 of the NPSFM and sets a maximum rate of water use for frost protection in order to avoid excessive use of water.

[R]

**Policy 5.7.10 – Avoid taking water for frost fighting purposes during periods of peak irrigation demand (1 January to 30 April in any calendar year).**

Given the significant volume of water involved in frost fighting, it is inappropriate for this water to be taken during the period of peak water demand (January to April). Abstraction of frost fighting water during this period has the potential to adversely affect other users of water. It is also unlikely that frost conditions will exist for most of the time period stated in the policy.

[R]

**Policy 5.7.11 – 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.**

Stored water is often used to supply water for frost protection given the high water demand. It is reasonable for people to replace the water utilised from the reservoir/dam for frost protection, particularly if subsequent frosts are predicted. The rate of abstraction of water to refill the reservoir/dam can be high and may lead to adverse effects on the natural and human use values supported by the waterbody and on other users of water. For this reason, there should be sufficient water stored to protect against three consecutive days of frost. This will minimise the need to take water at a significant rate to refill the reservoir for frost fighting on the subsequent day. If a person undertaking frost fighting proposes to refill the reservoir within the three days, then it is appropriate to also consider the effects of the rate of refill.

## **Issue 5H – Demand for water typically peaks when river flows and aquifer levels are at their lowest, which can cause short-term water availability issues.**

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Marlborough typically experiences a dry climate with the potential for significant seasonal variation in rainfall. Rainfall over summer months, even in average years, is insufficient to meet the demand of most crops, resulting in a significant increase in the demand for water for irrigation purposes. For the same reasons (low rainfall and high evapo-transpiration), the flow of water in rivers and the levels of aquifers are typically at their lowest over this same period. The imposition of environmental flows/levels to protect the life-supporting capacity of the water resource can result in the restriction or suspension of abstraction from those water resources. The outcome is one in which water users, particularly irrigators, cannot access water at the very time they need it the most. In such circumstances there is the potential for failure of crops or at least reduced yield. Given the importance of primary production to Marlborough's social and economic wellbeing, there is a need to find ways to alleviate such short-term water availability issues.

[R]

**Objective 5.8 – Maximise the availability of water within the limits of the resource.**

Water availability varies significantly in Marlborough, both in time and location. There are methods by which water that is available at different times of year (due to higher rainfall and lower evapo-transpiration) or available at other locations can be made available to help resolve short-term water availability issues. Examples can include the storage of water and/or augmentation of

water resources from other sources. This objective seeks to maximise water availability in order to mitigate the significant negative effects of water shortages, especially for primary production, which relies on water to grow crops. The sustainable yield from the water resource can place natural limits on the ability to achieve this objective, but where there are opportunities to supplement water resources, these will result in a more resilient economy and community.

[R]

**Policy 5.8.1 – Encourage the storage of water as an effective response to seasonal water availability issues.**

Given Marlborough's dry climate, especially over the summer months, storage of water has been utilised as a common strategy to offset temporary shortages of water for irrigation purposes. Storage has involved the interception of runoff by damming ephemeral water bodies, the damming of intermittently or permanently flowing water bodies and the placement of abstracted water in purpose-built reservoirs. There may also be the potential to augment river flow from the stored water. All of these approaches provide a back-up supply of water that increases water user resilience. For this reason the storage of water is strongly supported.

In some cases, activity status will assist to encourage the storage of water by providing for activities involved in storing water as a permitted activity or controlled activity.

Damming of intermittently or permanently flowing waterbodies can create the potential for adverse effects. These effects will be considered through Policies 5.2.21 and 5.2.22.

[R]

**Policy 5.8.2 – 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).**

Utilising higher flows in surface waterbodies to offset the shortage of water for irrigation during periods of low flow is an efficient and effective water management mechanism. The abstraction of water during periods of higher flow and the placement of this water into storage have been enabled for some time in Marlborough through Class C water permits. This regime continues under the reviewed resource management framework. It will assist water users to manage water shortages in a limit-based management regime, especially in response to the effect of any suspension of Class A or Class B water permits in accordance with other provisions in the MEP. "Higher flows" will be defined by rules which will set minimum flows below which water cannot be taken for storage through Class C water permits.

[R]

**Policy 5.8.3 – 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.**

Although an explicit C class exists to facilitate access to water for storage purposes under the circumstances set out in Policy 5.8.2, taking water allocated under another class for storage can also be efficient. For example, some rivers experience periods of high turbidity that can make run-of-the-river abstraction particularly difficult due to the effect on irrigation distribution systems. The storage of water during the irrigation season provides for a back-up supply of irrigation water when access to Class C water may otherwise be restricted or where no Class C has been established. There may also be short-term peaks in flow over the irrigation season in response to rainfall events that, while not sufficient to reactivate access to Class C, still create an opportunity to store water. This policy recognises these circumstances by enabling the storage of Class A or Class B water.

The policy also recognises that Class A and Class B were primarily created to enable access to water as instantaneous takes. Significant abstraction of water over the irrigation season for storage purposes has the potential to adversely affect the reliability of existing takes of water (by drawing down river flow/aquifer level at a faster rate than would otherwise have been the case).

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.

[R]

**Policy 5.8.4 – 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.**

This policy ensures that water taken for storage is not excessive relative to the use(s) to which it is eventually to be put. Excessive 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 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.

The policy assists to give effect to Policy B4 of the NPSFM.

[R]

**Policy 5.8.5 – All water placed in storage should be accurately accounted for.**

Although storage is not as such a 'use' of water (as water is stored for pending and subsequent use), it is still important to account for water taken from freshwater bodies for storage purposes as it represents a permanent removal of water from the freshwater resource. This policy does not establish a set methodology for accounting in these circumstances, as there has been, and will continue to be, a wide diversity of distribution systems developed by individual water users in response to the circumstances that exist on their property. The appropriate accounting system will be developed on a case-by-case basis through the resource consent process, but as a minimum requirement must accurately account for water taken from the freshwater resource that would not otherwise be accounted for through the metering requirements established by Policy 5.7.4. Dedicated metering would be one form of measurement, but other methods may also be appropriate.

**Issue 5I – 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.**

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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.

Once the water resource is fully allocated, there are limited circumstances under which that allocated water could become available for re-allocation. For example, an existing consent to take and use water may lapse, be only partially exercised, or be surrendered. 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.

[R]

**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. That does not mean that the outcome of the process will necessarily be the same, as the finite nature of water resources will inevitably result in different outcomes as allocation proceeds on a first in, first served basis. The provisions of the MEP attempt to ensure that there is some certainty about the volume of water available for allocation and the circumstances under which it is available to minimise the potential for conflict in the community. Even so, there will be circumstances under a first in, first served allocation regime that create the potential for a water user to get access to water on a more reliable basis than allocations made previously. This objective seeks to avoid such inequitable outcomes.

[R]

**Policy 5.9.1 – 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.**

This policy sets out in principle that any water that becomes available to re-allocate shall be allocated via ballot. A ballot is considered by water users to be the most equitable way to determine who should receive the water given the likely competition for the water amongst existing users. It avoids the situation of a person gaining access to water in preference to other potential users based on the nature of the use or because they were first to make an application.

[R]

**Policy 5.9.2 – 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.**

The policy sets out what the successful ballotter must do to secure the allocation gained through a ballot. As existing water permits define the spatial extent and rate of use, any proposed additional use would exceed existing allocations expressed in consents to take and use water. This means that a separate water permit would be required to authorise the taking and use of water. This policy secures the ability to make such an application without predetermining the outcome. While this process is underway, the water resource is considered to remain fully allocated to prevent a third party making an application for a water permit that would effectively nullify the result of the ballot.

[R]

**Policy 5.9.3 – 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.

The matters in (a) to (c) set out procedurally how any ballot to allocate water would be conducted. These matters will therefore guide the ballot process, if any ballot is required.

**Methods of implementation**

The methods listed below are to be implemented by the Council unless otherwise specified.

[R]

#### **5.M.1 Regional rules**

*Set environmental flows and/or levels for permanently flowing rivers, lakes, wetlands and aquifers to maintain the uses and values supported by the waterbody.*

*Set allocation limits for each FMU to establish the total amount of water able to be sustainably abstracted from the water resource.*

*Apply regional rules to regulate the taking, use, damming or diversion of water in accordance with the policies in this chapter. This includes the use of permitted activity rules to enable the taking, use, damming or diversion of water where the activity will not give rise to adverse effects on natural and human use values supported by the waterbody.*

*A permitted activity rule will enable the construction of bores.*

*Prohibit the taking, use, damming or diversion of water where those activities would adversely affect the significant values of outstanding water bodies.*

*Prohibit the taking of water beyond environmental flows/levels and allocation limits set by rules.*

*Require all resource consents granted for water takes to be measured by pulse emitting meter and recorded by data logger, and require the recorded take and use information to be transferred to the Council by telemetry.*

*Review water permit conditions to impose or alter environmental flows and levels (or other relevant limits) established by rules in the MEP.*

[R]

#### **5.M.2 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.*

[R]

#### **5.M.3 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.*

[R]

#### **5.M.4 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.*

[R]

#### **5.M.5 E-Planning**

*Deliver Council resource consent, compliance and environmental information functions through digital means via the Council website. Provision of timely information and functions will assist water users to improve their use practices and encourage more efficient use of water.*

[R]

**5.M.6 Incentives**

*Incentivise the storage of water during periods of higher river flow to provide an alternative supply of water during periods of low flow. Incentives include the use of a permitted activity for the use of stored water and a controlled activity for the taking of Class C water.*

[R]

**5.M.7 Modelling**

*Model the irrigation demand of pasture and crops according to soil type and climate. The model output will be used as a basis for determining allocations for the use of water. The model will be provided to water users via the E-planning tool.*

[R]

**5.M.8 Research**

*Continue to research the reasonable use requirements of the crops grown in Marlborough. This will include continuing to collect and refine soil information to allow the model to be refined over time.*

[R]

**5.M.9 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.*

## **Issue 5J – People want to be able to use and develop the coastal marine area for private benefit.**

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The Council's role in managing the resources of the coastal marine area follows from the way in which people's use of the coastal marine area is restricted under the RMA. The RMA prohibits the use or occupation of the coastal marine area unless allowed to by resource consent or rules within a regional coastal plan. (The same situation does not apply to land uses above the mean high water springs mark, where people are allowed to use land unless a district plan rule states they cannot.)

Management regimes for specific uses and activities in the coastal marine area are included within Chapter 13 - Use of the Coastal Environment. However, provisions in this part of the Marlborough Environment Plan (MEP) deal with higher level concerns about how space in the coastal marine area should be allocated, the degree to which various occupations generate private versus public benefits and the circumstances in which a user should pay to use the space.

The community has different expectations about the extent of rights able to be enjoyed in using public resources. For some, there is a belief that there is a right to be able to have a jetty and a boatshed fronting a family property in the Marlborough Sounds and multiple moorings for boats. Others believe that there are no such rights. Many such structures have limited benefit for the wider public, yet occupy public space. Conversely, some structures, such as public jetties and launching ramps, do provide enhanced public use of and access to the coast and consequently are of general public benefit.

The occupation of coastal marine area may effectively prevent other activities from occurring. The extent to which the public are excluded from parts of the coastal marine area varies according to the nature of an authorised activity, whether by resource consent or by a rule in a regional coastal plan. At times there can also be conflict and competition for water space, where uses and activities are not necessarily compatible in the same area.

Regardless of the type of activity or use proposed in the coastal marine area, in addition to consideration of other effects it is important that the impact on the public interest is considered, as the coastal marine area is a public resource.

[RPS, C]

### **Objective 5.10 – Equitable and sustainable allocation of public space within Marlborough’s coastal marine area.**

The control of the occupation of space in the coastal marine area is a specific function of the Council. The Council allocates or allows the right to use public resources for private benefit. This is within the Council's role of promoting the sustainable management of the natural and physical resources of the coastal marine area. The objective is therefore intended to ensure that these resources and their associated qualities remain available for the use, enjoyment and benefit of future generations in a way that minimises adverse effects on the environment, avoids conflicts between users and ensures efficient and beneficial use.

[RPS, C]

#### **Policy 5.10.1 – Recognition that there are no inherent rights to be able to use, develop or occupy the coastal marine area.**

Both the RMA and the New Zealand Coastal Policy Statement 2010 (NZCPS) anticipate that appropriate ‘use’ can be made of the coastal marine area and that this may involve occupation of coastal space for private benefit. Additionally, the Marine and Coastal Area (Takutai Moana) Act 2011 enables public access and recreation in, on, over and across the public foreshore and seabed, as well as general rights of navigation. However, it is important to recognise that the rights to be able to use coastal marine area are not guaranteed in terms of Section 12 of the RMA; rather, use must be enabled by way of a rule in a plan or by resource consent.

[RPS, C]

#### **Policy 5.10.2 – The ‘first in, first served’ method is the default mechanism to be used in the allocation of resources in the coastal marine area. Where competing demand for coastal space becomes apparent, the Marlborough District Council may consider the option of introducing an alternative regime.**

The default process for processing resource consent applications under the RMA is ‘first in, first served.’ The Council processes resource consent applications in the order they are received, provided they are accompanied by an adequate assessment of environmental effects. Using this approach the Council has to date effectively managed the demand for space in the coastal marine area. However, if competing demand for space becomes an issue, the Council may consider the introduction of other allocation methods. There may also be certain circumstances under which a specific allocation mechanism is introduced to address a specific issue.

[RPS, C]

#### **Policy 5.10.3 – Where a right to occupy the coastal marine area is sought, the area of exclusive occupation should be minimised to that necessary and reasonable to undertake the activity, having regard to the public interest.**

Exclusive occupation restricts access to the resource consent holder, who has the right to occupy and therefore alienate public space from public use. However, not all activities require exclusive occupation, meaning that other users may carry out activities in the same space where there is no occupation needed, e.g. recreational boating. Given the public's expectation of being able to use the coastal marine area, the Council considers that exclusive occupation should only be allowed where absolutely necessary.



[C]

**Policy 5.10.4 – Coastal occupancy charges will be imposed on coastal permits where there is greater private than public benefit arising from occupation of the coastal marine area.**

The RMA enables the Council to apply a coastal occupancy charge to activities occupying space within the coastal marine area, after having regard to the extent to which public benefits from the coastal marine area are lost or gained and the extent to which private benefit is obtained from the occupation of the coastal marine area. The Council has considered the private and public benefits associated with coastal occupations and has determined that where the private benefit is greater than the public benefit, charging for occupation of coastal space is justified. The assessment of benefits (private/public) is directed to those arising or lost as a consequence of the structure occupying coastal space, not the associated activity that may be facilitated by the structure being present.

[C]

**Policy 5.10.5 – The Marlborough District Council will waive the need for coastal occupancy charges for the following:**

- (a) public wharves, jetties, boat ramps and facilities owned by the Marlborough District Council and the Department of Conservation;
- (b) monitoring equipment;
- (c) activities listed as permitted, except for moorings in a Mooring Management Area;
- (d) retaining walls; and
- (e) port and marina activities where resource consents authorised under Section 384A of the Resource Management Act 1991 are in place until such time as those resource consents expire.

These waivers exist because the facilities owned by the Council and the Department of Conservation provide a significant level of public benefit as they are used by and available to many people. Retaining walls generally do not occupy significant areas of the coastal marine area to the exclusion of other users, while monitoring equipment is generally very small and often temporary. There are few permitted activities that involve occupation and those that are permitted tend to have a more significant element of public benefit, e.g. navigation aids or public and safety information signs. Although moorings in a Mooring Management Area identified through rules are provided for as a permitted activity in the Coastal Marine Zone (where a relevant bylaw is in place), these moorings are for private benefit and therefore will attract a coastal occupation charge.

Certain occupation rights are granted to port companies under Section 384A of the RMA. In Marlborough the resource consents granted under this section of the RMA relate to port related commercial undertakings being carried out in the areas of Picton (excluding the area of port in Shakespeare Bay), Waikawa, Havelock, Elaine and Oyster Bays. The RMA appears to exempt these resource consents from attracting coastal occupancy charges until after 30 September 2026.

[C]

**Policy 5.10.6 – Where there is an application by a resource consent holder to request a waiver (in whole or in part) of a coastal occupation charge, the following circumstances will be considered:**

- (a) the extent to which the occupation is non-exclusive;
- (b) whether the opportunity to derive public benefit from the occupation is at least the same or greater than if the occupation did not exist;
- (c) whether the occupation is temporary and of a non-recurring nature;
- (d) whether the applicant is a charitable organisation, trust or community or residents association, and if so:

- (i) the nature of the activities of that organisation; and**
- (ii) the responsibilities of that organisation.**

Section 64A(3)(b) of the RMA requires the circumstances when the Council will consider waiving, either in whole or part, coastal occupation charges to be set out in the MEP. These circumstances, set out in a) to d) above, effectively require consideration of the difference between private benefit from an occupation and the public benefit that can accrue from an occupation. For a), where there is exclusive occupation this carries a high degree of private benefit, whereas where the occupation is only temporary there may only be a short-term private benefit. Where trusts, clubs, associations, etc are involved, it is important to understand the nature of the activities and responsibilities of that organisation, including how its purpose relates to the occupation for which a waiver is being sought and the wider public benefits that will accrue from this.

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**Policy 5.10.7 – The manner in which the level of coastal occupancy charges has been determined is as follows:**

- (a) the expenditure related to the Marlborough District Council's role in the sustainable management of Marlborough's coastal marine area has been established;**
- (b) the anticipated exemptions and waivers from coastal occupancy charges has been considered;**
- (c) the beneficiaries and allocation of costs fairly and equitably amongst beneficiaries has been decided; and**
- (d) the appropriate charge for the differing occupations to recover costs has been determined.**

In deciding how to set charges, the Council has used as its starting point the actual expenditure considered necessary to promote the sustainable management of the coastal marine area. The budgeted expenditure for this is described year to year in the Council's Annual Plan for the Environmental Science and Monitoring Group, Environmental Policy Group and Environmental Compliance and Education Group.

In determining who should meet the cost of sustainably managing the coastal marine environment, an allocation of costs needs to occur between beneficiaries. The Council has considered that a contribution towards the costs should be made by ratepayers (25%) as well as those benefitting from the occupation of public space (75%). The Council has also given consideration to anticipated waivers that may be granted and the number and size of the various occupations. From this assessment, a schedule of charges has been derived and is set out in the Council's Annual Plan.

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**Policy 5.10.8 - Any coastal occupancy charges collected will be used on the following to promote the sustainable management of the coastal marine area:**

- (a) implementation of a Coastal Monitoring Strategy;**
- (b) State of the Environment monitoring;**
- (c) research in relation to the state and workings of the natural, physical and social aspects of the coastal marine area;**
- (d) education and awareness;**
- (e) habitat and natural character restoration and enhancement;**
- (f) managing marine biosecurity threats;**
- (g) maintaining and enhancing public access; and**

**(h) formal planning in the Resource Management Act 1991 planning context and strategic planning and overview in relation to the coastal environment.**

The RMA requires that in implementing a coastal occupancy charging regime, any money collected must be used to promote the sustainable management of the coastal marine area. The policy describes those matters on which the revenue collected from imposing charges is to be used, as required by the RMA. Greater detail on these matters can be found in a number of the subsequent chapters of the MEP, including Chapter 6 - Natural Character, Chapter 7 - Landscape, Chapter 8 - Indigenous Biodiversity, Chapter 9 - Public Access and Open Space, Chapter 10 - Heritage Resources, Chapter 13 - Use of the Coastal Environment and Chapter 15 - Resource Quality (Water, Air, Soil).

**Methods of implementation**

The methods listed below are to be implemented by the Council unless otherwise specified.

[C]

**5.M.10 Regional Rules**

*Include provisions relating to the requirement for coastal occupation charges for port facilities where appropriate, moorings, marinas where appropriate, marine farms, jetties, wharves, boat ramps and slipways, boatsheds and other structures and utilities. Rules will also require discretionary activity applications to be made to enable an assessment of whether an exemption or waiver of any charge should be granted.*

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**5.M.11 Annual Plan**

*The level of charge to be applied to any activity for which a coastal permit is granted to occupy the coastal marine area is set out in the Council's Annual Plan.*

Anticipated environmental result	Monitoring effectiveness
5.AER.1 Sufficient flow in rivers and adequate groundwater level to sustain natural and human use values supported by these water bodies.	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.
5.AER.2 Maintenance of spring flows on the Wairau Plain.	Attainment of environmental flows for Spring Creek, Taylor River and Doctors Creek, as measured at representative monitoring sites.
5.AER.3 Maintenance of the significant values of outstanding water bodies.	Reassessment of waterbody values at the time of the next review of the MEP.
5.AER.4 More efficient allocation of water resources.	The number of water permits granted for the use of water on the basis of the reasonable use test.

Anticipated environmental result	Monitoring effectiveness
<p>5.AER.5</p> <p>Increased utilisation of allocated water.</p>	<p>Increased use of water, within allocation limits, as recorded by water meter and published via E-planning.</p> <p>Water users transfer water permits from site to site, as recorded by E-planning.</p>
<p>5.AER.6</p> <p>Reduced conflict between water users.</p>	<p>A reduction in the number of complaints regarding the taking, use, damming and diversion of water.</p>
<p>5.AER.7</p> <p>Over-allocation of water resources is phased out.</p>	<p>The total amount of water allocated to water users in over-allocated resources does not exceed the allocation limit by 2025.</p>
<p>5.AER.8</p> <p>Land use change does not reduce water yield in fully allocated FMUs to the extent that it adversely affects the reliability of existing water permits.</p>	<p>No significant increase in the incidence of flow restrictions experienced by water permit holders in fully allocated FMUs.</p>
<p>5.AER.9</p> <p>Storage of water is increasingly utilised to improve the resilience of water uses.</p>	<p>The record of the number of Class C water permits granted.</p>