

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

ENV-2020-CHC

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of an appeal under Clause 14, Schedule 1 of the RMA

**NOTICE OF APPEAL
Dated this 8th day of May 2020**

**GASCOIGNE WICKS
LAWYERS
BLLENHEIM**

Solicitor: Quentin A M Davies and Joshua S
Marshall
(jmarshall@gwlaw.co.nz | qdavies@gwlaw.co.nz)

Appellant's Solicitor
79 High Street
PO Box 2
BLLENHEIM 7240
Tel: 03 578 4229
Fax: 03 578 4080

BETWEEN

BRENTWOOD VINEYARDS LIMITED a duly incorporated company having its registered office at LESLIE & O'DONNELL LIMITED, 65 Seymour Street, Blenheim, **BURES VINEYARD LIMITED** a duly incorporated company having its registered office at Peters Doig Ltd, 59 High Street, Blenheim, 7201, New Zealand, **KENNETH JAMES COLES** of Blenheim, **LARGE'S ROSE NURSERY LIMITED** a duly incorporated company having its registered office at WK Advisors and Accountants Limited, 2 Alfred Street, Mayfield, Blenheim, **MICHAEL ROSS CROAD** of Blenheim, **MURPHY HORTICULTURE LIMITED** a duly incorporated company having its registered office at WK Advisors and Accountants Ltd, 2 Alfred Street, Mayfield, Blenheim, **O ' DWYERS CREEK VINEYARD LIMITED** a duly incorporated company having its registered office at TFS Chartered Accountants, 214 Main Road, Tawa, Wellington, 5028, New Zealand, **ORMOND NURSERIES LIMITED** a duly incorporated company having its registered office at 148 Rowley Crescent, Grovetown, Blenheim, **STARBOROUGH FARMING COMPANY LIMITED** a duly incorporated company having its registered office at Peters Doig Limited, Chartered Accountants, 59 High Street, Blenheim, **STEMBRIDGE VINEYARDS LIMITED** a duly incorporated company having its registered office at WK Advisors and Accountants Limited, 2 Alfred Street, Mayfield, Blenheim, **MARK ROBERT TAGGART** and **JACQUELINE ROCHELLE TAGGART** as trustees of the Taequi Trust, **TERRENCE PATRICK MCGRAIL** of Blenheim, **WALNUT BLOCK WINES LIMITED** a duly incorporated company having its registered office at Wallace Diack Chartered Accountants Limited, Level 2, Youell House, 1 Hutcheson Street, Blenheim, **EDWARD CHARLES CHAPMAN-COHEN** and **KATHRYN JANE CHAPMAN-COHEN** as partners in the Walnut Creek Partnership, and **WELTON VINEYARDS LIMITED** a duly incorporated company having its registered office at Wallace Diack Chartered Accountants Limited, Level 2, Youell House, 1 Hutcheson Street, Blenheim

Appellant

AND

MARLBOROUGH DISTRICT COUNCIL

Respondent

Notice of Appeal to Environment Court against decision on a proposed Plan

Clause 14(1) of Schedule 1, Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

Name of Appellant and Decision Maker

1 The following persons (the “appellants”) jointly appeal against part of the decision of the Marlborough District Council (“MDC”) on the proposed Marlborough Environment Plan (“MEP”):¹

- (a) Brentwood Vineyards Limited;
- (b) Bures Vineyard Limited;
- (c) Kenneth James Coles;
- (d) Large’s Rose Nursery Limited;
- (e) Michael Ross Croad;
- (f) Murphy Horticulture Limited;
- (g) O ' Dwyers Creek Vineyard Limited;
- (h) Ormond Nurseries Limited;
- (i) Starborough Farming Company Limited;
- (j) Stembridge Vineyards Limited;
- (k) Mark Robert Taggart and Jacqueline Rochelle Taggart as trustees of the Taequi Trust;
- (l) Terrence Patrick McGrail;
- (m) Walnut Block Wines Limited;
- (n) Edward Charles Chapman-Cohen and Kathryn Jane Chapman-Cohen as partners in the Walnut Creek Partnership; and

¹ The appellants are in the process of incorporating a society to be known as the Spring Waters Users Group Incorporated. It is intended that the society will be the appellants’ successor to this appeal under s 2A of the RMA. Since the society will not be incorporated before the appeal deadline expires, this appeal is brought, in the first instance, in the names of the appellants personally. The appellants rely on the decision in *Arthur’s Point Protection Society Inc v Queenstown Lakes District Council* (2009) 15 ELRNZ 245 (EnvC).

(o) Welton Vineyards Limited.

2 The appellants made submissions on the MEP.²

Trade Competition

3 The appellants are not a trade competitors for the purposes of s 308D of the Act.

Date of Decision appealed against

4 The reasons for the decision were released from 21 February 2020 and the tracked changes decision version of the Plan was released on 3 March 2020.

Date on which Notice of Decision was received by Appellant

5 The appellants received notice of the decision on 21 February and 3 March 2020.

The Decision

6 The parts of the decision that the appellants are appealing is:

(a) Appendix 6 of Volume 3. In particular, provisions relating to the Wairau Aquifer Urban Springs, Wairau Aquifer Central Springs and Wairau Aquifer North Springs Freshwater Water Management Units (collectively referred to as the “Springs FMUs”).

Reasons for the Appeal

7 The reasons for the appeal are as follows:

- (a) The appellants are interested in abstractions from the Springs FMUs.
- (b) The trigger levels applying to abstraction from the Springs FMUs are relatively arbitrary. The effect of abstraction by the appellants on the aquifer is relatively low.
- (c) Imposing arbitrary fixed limits where many of those affected will have a delayed or, at worst, a less direct effect, is contrary to policy B1 of the National Policy Statement for Freshwater Management 2014 (NPSFM). Insufficient regard has been given to the connection between surface water bodies and groundwater bodies.

² Note that, while separate appeals were made by submitters, they acted in concert on their submissions.

- (d) Some groundwater abstractions limits for the Springs FMUs are inconsistent with adjacent areas (for example, abstractions to the immediate West). Insufficient regard has been given to the relative influence of these abstractions on water bodies.
- (e) Policy 5.2.4 in the MEP “establishes a commitment to a progressive programme of investigation to collect and analyse environmental data required to establish the minimum flow or level. The minimum flow or level of the Wairau Aquifer FMU will be added to the MEP by plan change or upon review.” 2024 is set as a target for establishing minimum flows or levels.
- (f) The interim abstraction limits will have an inordinate impact on the appellants. They are inconsistent with the NPSFM and are inconsistent with the principles of sustainable management.
- (g) The Springs FMUs should be removed from Appendix 6. Consents for abstraction can then be considered on a case-by-case basis until the review contemplated by policy 5.2.4 is complete.
- (h) Removal of the Springs FMUs from Appendix 6 will not remove regulation of abstraction. Resource consents will still be required for abstraction. Consent applications will be decided in light of the available evidence on a case-by-case basis.

Relief Sought

- 8 The Appellant seeks the following relief:
- (a) Remove references to the Springs FMUs from Appendix 6 of Volume 3.
 - (b) Other equivalent relief.

Attached Documents

- 9 The following documents are **attached** to this notice:
- (a) A copy of the appellants’ submission (at Schedule A);
 - (b) A copy of the relevant parts of the decision (at Schedule B); and
 - (c) A list of names and addresses of persons to be served with a copy of this notice (at Schedule C).

Joshua Marshall

Quentin A M Davies and Joshua S Marshall
Solicitor for the Appellant

Address for service of the Appellant

Gascoigne Wicks, 79 High Street, Blenheim 7201.

Telephone: 03 578 4229

E-mail: jmarshall@gwlaw.co.nz and qdavies@gwlaw.co.nz

Contact person: Josh Marshall and Quentin Davies, Solicitors

Note to appellant

You may appeal only if—

you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and

in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

If this appeal is being served on you in hardcopy, the copy of this notice served on you does not attach a copy of the appellant's submission or part of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Submission on the Proposed Marlborough Environment Plan



Submissions close 1 September 2016

ISO 9001
Document Number:
EAF005-C1726

1. Submitter Details

Full Name

PETER WALLIS ROSE

Organisation (if applicable)

BRENTWOOD VINEYARD LTD

Contact Person (if applicable)

PETER ROSE

Postal Address

161 CRAVEN'S ROAD,

R.D.3,

BLenheim

Post Code 7273

Contact Details

Email Address: rosebud1@extra.co.nz

Phone: [Daytime] 5705766

Phone: [Mobile] 0274375819

Address for Service

(if different from above)

Post Code

Signature (of submitter or person
authorised to sign on behalf of submitter)

Peter Wallis Rose

Date 31/08/2016

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? Yes No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? Yes No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? Yes No

4. Return Submission to:

Attention Planning Technician
Marlborough District Council
PO Box 443
Blenheim 7240

Fax: 03 520 7496

Email: mep@marlborough.govt.nz

For Office Use
Submission No:



5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

WAIKAI AQUIFER NORTHEN CENTAL -URBAN
SPRING
VOLUME 3
APPENDIX 6

Continue on a separate sheet if necessary

6. My submission is: (state the nature of your submission whether you support or oppose (in full or in part) specific provisions)

PLEASE REFER ATTACHED SUBMISSION

Continue on a separate sheet if necessary

7. The decision I seek from Council is: (where amendments are sought, provide details of what changes you would like to see)

PLEASE REFER ATTACHED DECISION SOUGHT.

Continue on a separate sheet if necessary

MFP Fresh Water Management Unit (FMU)

Wairau Aquifer Northern, Central and Urban Springs

Submission Form – Wairau Aquifer (Springs)

Submission By: Brentwood Vineyards Ltd

Volume 3

Appendix 6

Submission:

We strongly oppose proposed ground water cut off to users in the Northern, Central and Urban Springs Sectors, based on the water level of monitoring wells 3009,4404 and 3954- Chapter 3 – Appendix6 of the PMEP.

The arbitrary nature of the western boundary line on the map, allows water users in Selmes Road and to the West of the designated Springs areas, to continue watering unrestricted.

The underground take to the West of Selmes Road does affect creek and spring levels to the East at times of peak demand. We find this proposal inequitable if the proposed 100% restrictions are to be applied to the Northern Springs When monitor well 3009 falls below 11.8meters above sea level, having fallen to its lowest recorded level of 11.84 meters in 2015.

We recognise the massive change of land uses to viticulture and the need of Council to manage water use , but this needs to be in an equitable and even fair handed manner.

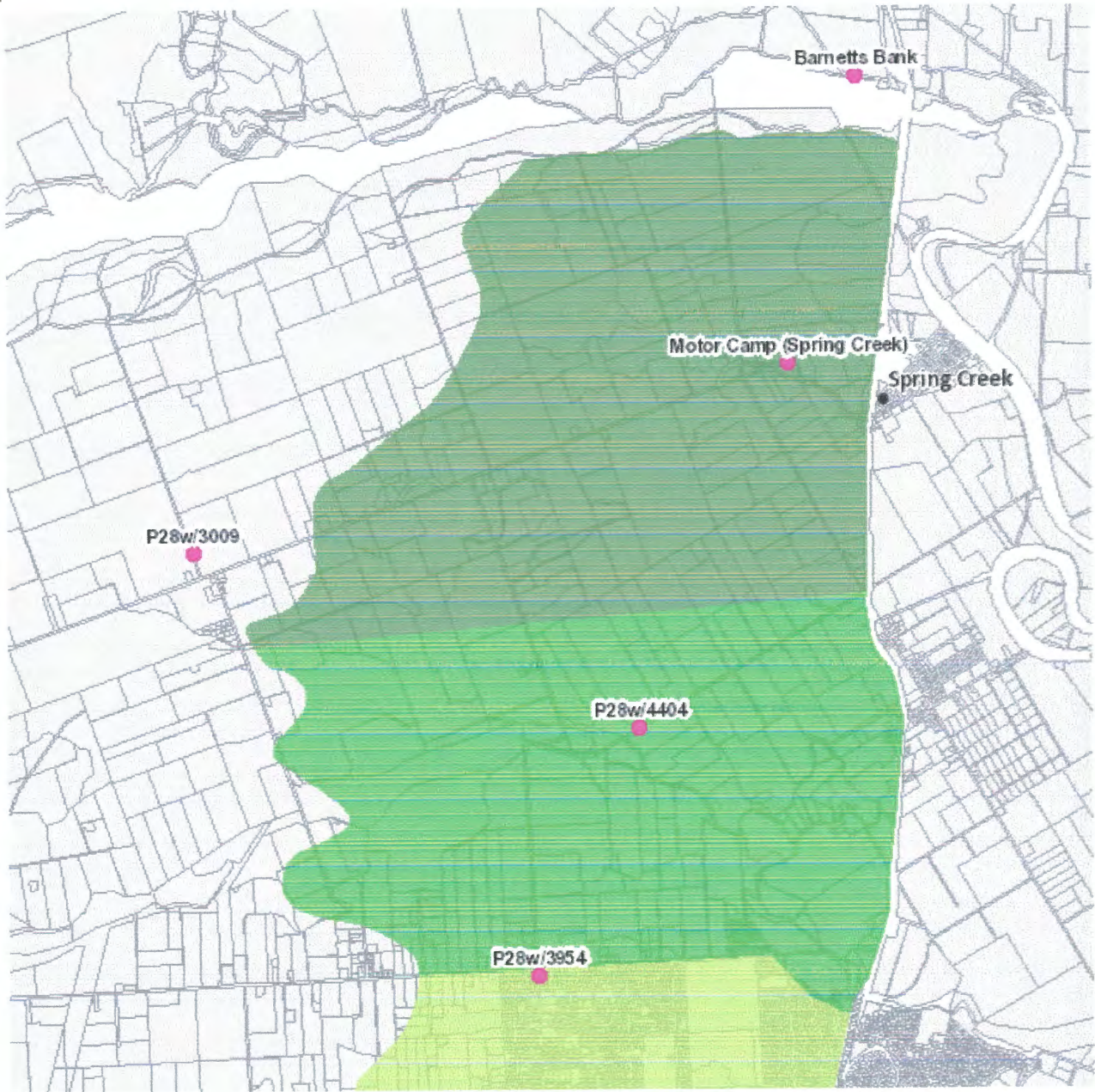
The Council needs to be cognicent of the fact that these areas have “Class A water rights “ which has long been recognised as a safe and assured water supply areas.

We believe the Council needs to aquire further knowledge on how the recharge of the Wairau Aquifer takes place and what affects the takes to the west of the Northern, Central and Urban Springs areas by the takes of The Southern Valleys and takes further west in the Wairau Valley.

Decision Sought:

Remove 100% blanket cut off to the Northern Central and Urban Springs sector water users.

Acquire more scientific data and evidence as to how the complex aquifer recharge takes place. This would allow for better understanding by the Council of the long term trends of the aquifer levels and be better able to impose restrictions to all water users/ permit holders across the whole of the Wairau Aquifer to better allocate water usage during dry conditions.





Submission on the Proposed Marlborough Environment Plan

MARLBOROUGH DISTRICT COUNCIL

Submissions close 1 September 2016

ISO 9001
Document Number:
EAF0005-C11726

1. Submitter Details

Full Name: CHRISTOPHER JOHN MARCH AND RACHEL MELISSA MARCH

Organisation (if applicable): BURES VINEYARD LIMITED

Contact Person (if applicable): CHRIS MARCH

Postal Address: 75 MILLS AND FORD ROAD EAST
RD3
BLENHEIM Post Code: 7273

Contact Details: Email Address: chrismarch@xtra.co.nz
Phone: [Daytime] 021704840 Phone: [Mobile] 021704840

Address for Service: (if different from above)

Signature (of submitter or person authorised to sign on behalf of submitter):  Date: 1/9/2016

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? Yes No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? Yes No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? Yes No

4. Return Submission to:

Attention Planning Technician
Marlborough District Council
PO Box 443
Blenheim 7240

Fax: 03 520 7496
Email: mep@marlborough.govt.nz

For Office Use
Submission No:

5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

Wairau Aquifer Fresh Water Management Unit - Central and Northern Springs Sectors Chapter 3, Appendix 6

Continue on a separate sheet if necessary

6. My submission is: *(state the nature of your submission whether you support or oppose (in full or in part) specific provisions)*

We strongly oppose the concept of setting groundwater take restrictions in the Northern, Central and Urban Springs area (Springs Area) based on water levels in monitoring wells as proposed in Chapter 3 Appendix 6 of the PMEP.

We are about to purchase a property in the Springs Area and what is being proposed will potentially have a massive effect on our business of growing grapes. Part of our reasoning for purchasing in this area was because there is no water restrictions. We think that what you are proposing could also have a massive affect on the property values in this area.

Continue on a separate sheet if necessary

7. The decision I seek from Council is: *(where amendments are sought, provide details of what changes you would like to see)*

We are asking for any water decisions to be based on sound science and applied fairly to all Wairau Aquifer permit holders not just the Springs Area.

Continue on a separate sheet if necessary

Submission on the Proposed Marlborough Environment Plan



Submissions close 1 September 2016

ISO 9001
Document Number:
EAF0005-CI1726

1. Submitter Details

Full Name

Organisation (if applicable)

Contact Person (if applicable)

Postal Address

 Post Code

Contact Details Email Address:
Phone: [Daytime] Phone: [Mobile]

Address for Service
(if different from above)
 Post Code

Signature (of submitter or person authorised to sign on behalf of submitter) Date

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? Yes No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? Yes No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? Yes No

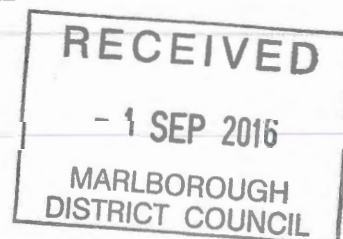
4. Return Submission to:

Attention Planning Technician
Marlborough District Council
PO Box 443
Blenheim 7240

Fax: 03 520 7496

Email: mep@marlborough.govt.nz

For Office Use
Submission No:



5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

Continue on a separate sheet if necessary

6. My submission is: (state the nature of your submission whether you support or oppose (in full or in part) specific provisions)

We are concerned about the proposed ground water restrictions for the Northern Springs area as set out in chapter 3 Appendix 6 of the Proposed Marlborough Environment Plan.
We need some indication as to how often the restrictions are likely to come into effect.
We need to be absolutely sure that the water levels that determine the restrictions are not influenced by other unrestricted water takes in other areas.
We need absolute clarity as to when these restrictions come into effect, do they override our current water permit,

Continue on a separate sheet if necessary

7. The decision I seek from Council is: (where amendments are sought, provide details of what changes you would like to see)

Remove the 100% blanket cut-off to Springs sector water users.
Before implementing a blanket restriction further scientific evidence of the complex aquifer/springs recharge process is required. A better understanding of the long term trend of the aquifer levels is essential before setting lower limits and cut-off thresholds.
Treat all Wairau Aquifer groundwater users equally and consider implementing a rationing restriction when the monitor wells drop below set level. This would give all Wairau Aquifer groundwater users the opportunity to prioritise where their reduced volume of allocated water is utilised.

Continue on a separate sheet if necessary



2:37pm

Submission on the Proposed Marlborough Environment Plan



Submissions close 1 September 2016

ISO 9001
Document Number:
EAF0005-C11728

1. Submitter Details

Full Name

Organisation (if applicable)

Contact Person (if applicable)

Postal Address

Post Code

Contact Details Email Address:

Phone: [Daytime] Phone: [Mobile]

Address for Service

(if different from above)

Post Code

Signature (of submitter or person authorised to sign on behalf of submitter) Date

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? Yes No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? Yes No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? Yes No

4. Return Submission to:

Attention Planning Technician
Marlborough District Council
PO Box 443
Blenheim 7240

Fax: 03 520 7496

Email: mep@marlborough.govt.nz

For Office Use
Submission No:

5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

Volume 3 Appendix 6

Springs Creek Class N/A. Minimum of 2.6 m³/s @ Mcker Camp.
Fully restricted, below 2.600 m³/s.

Continue on a separate sheet if necessary

6. My submission is: (state the nature of your submission whether you support or oppose (in full or in part) specific provisions)

Please find Attached Letter

Continue on a separate sheet if necessary

7. The decision I seek from Council is: (where amendments are sought, provide details of what changes you would like to see)

Continue on a separate sheet if necessary

LARGE'S ROSE NURSERY

77 Hillocks Road, RD3 Blenheim
p: 03 570 5645 m: 021 370 996 e: therosenursery@xtra.co.nz



31/08/16

We wish to oppose the concept of setting groundwater take restrictions.

What is being proposed will have a potentially large effect on our business.

Without unrestricted water every year, Larges Rose Nursery Ltd would have no business. We have to irrigate the Roses, if we stopped irrigating, We would have no Roses and no business.

Larges Rose Nursery Ltd has been in business for 110 years, 84 years in Marlborough (Spring Creek area) We employ Casual staff throughout the year.

We are not asking for more water, We just want to be able to carry on our family business as usual.

Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Submitter Name: Mike Croad

Date: 1/09/2016

Address for service:

P O Box 5134
Springlands

7241

Telephone: 00642183119

Mobile: 00642183119

Email:

mike@berakah.co.nz

Submitter Number: 287

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 288.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Oppose the specified provisions

My submission is:

Submitting against: Fresh Water Management Unit 'Urban, Central and Northern Springs changes'. Strongly oppose cut of of Springs Area until further info is given on historical well levels.

I seek the following decision from the local authority:

Remove cut off for Springs Area (inferred).

Submission Point: 288.2

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Support the specified provisions

My submission is:

Support in favour of current cut off flows in the Awatere and Wairau Rivers.

I seek the following decision from the local authority:

Support in favour of current cut off flows in the Awatere and Wairau Rivers.

Submission Point: 288.3

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 1

Chapter: 5 Allocation of Public Resources

Provision: Policy 5.7.10

I Oppose the specified provisions

My submission is:

Oppose ruling around no water to be used from river for direct frost protection between 1st Jan and 30th April.

I seek the following decision from the local authority:

Delete policy (inferred).

Submission Point: 288.4

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 1

Chapter: 5 Allocation of Public Resources

Provision: Policy 5.7.3

I Oppose the specified provisions

My submission is:

Seek clarification of the water allocated for shoulder season through Irricalc as it appears to not be enough. Also clarification around water that can be used off season for other operations such as winter maintenance and other small operations.

I seek the following decision from the local authority:

Specific decision requested is not clear in the Submission.

Submission Point: 288.5

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 1

Chapter: 5 Allocation of Public Resources

Provision: 5.

I Oppose the specified provisions

My submission is:

Seek clarification on the reconciliation periods of water takes and water use and how storage facilities affect these rules.

I seek the following decision from the local authority:

Specific decision requested is not clear in the Submission.

Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Organisation: Murphy Horticulture

Contact person: Chris Murphy

Date: 31/08/2016

Address for service:

173 Murrays Road
RD 3
Blenheim 7273

Telephone:

Mobile: 0279 166 939

Email:

chris@murphyhort.co.nz

Submitter Number: 225

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 226.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Oppose the specified provisions

My submission is:

We strongly oppose the proposed groundwater cut-off to users in the Central, Northern and Urban Spring sectors based on the water level in three MDC monitoring wells.

The area's affected by this proposal have some of the most productive and water efficient land in Marlborough. Our property on Murrays Rd has a combination of Spring Creek silt loam soil and Spring Creek clay loam soil. Both these soil types are highly fertile with an excellent water holding capacity. We can produce some of the highest yields in Marlborough with the least amount of inputs. This land is hugely productive. It seems outrageous that groundwater users located west of the three sectors can continue to water unrestricted on comparatively shallow top soil with significantly reduced water holding capacity while we are fully restricted.

It also appears that the trend over the past 20 years at well 3009 is showing a slow decline. It could be suggested that the proposed levels suggested may become a common occurrence. The aquifer also flows toward the sea. As a result, the levels of well 3009 could be more significantly affected by water users immediately surrounding the monitor sight and water users to the

West of this sight. Further knowledge and understanding is required of the recharge process to the Wairau Aquifer and the relationship between the aquifer and Spring system before limits to groundwater users are implemented.

Enforcing a cut off point where water users go from full access to water to no access at all is a huge risk to my business and will 100% change our approach going forward. We currently have 18 hectares of apples that are grown on dwarfing rootstocks to ensure we are able to grow the fruit economically. This part of our business is not viable without water. If we are looking at the prospect of complete water restrictions then the apples will be removed and replaced with grapes. Apples generate significantly more money than grapes and also require a significantly higher spend than grapes, which benefits Marlboroughs economy. As an estimate this would reduce our gross income by approximately \$1,000,000 and reduce our wage spend by approximately \$150,000. This is money lost to not only myself but the Marlborough region. However, I'm not going to risk my families livelihood growing apples if complete water restrictions are a possibility as we would suffer hugely financially if we had no access to water when they need it the most.

I seek the following decision from the local authority:

Remove the 100% blanket cut-off to Springs sector water users. There are significantly better options available to protect water than a 100% cut-off. Nelson has a significantly better system that includes stepped reductions in water use rather than the sledge hammer approach of 100% cut-off. This would allow the people of Marlborough to manage their water use in times of drought to ensure their businesses can survive

Water users west of the 3 proposed areas use significantly more water per hectare than the 3 proposed area's so need to be included in any water protection measures. A better understanding of how water restrictions on certain areas will affect the aquifer is needed. We also need a better understanding of long term trends of the aquifer levels before setting lower limits and cut-off thresholds.

Submission on the Proposed Marlborough Environment Plan



Submissions close 1 September 2016

ISO 9001
Document Number:
EAF0005-C11726

1. Submitter Details

Full Name

Organisation (if applicable)

Contact Person (if applicable)

Postal Address

Post Code

Contact Details Email Address:

Phone: [Daytime] Phone: [Mobile]

Address for Service

(if different from above)

Post Code

Signature (of submitter or person authorised to sign on behalf of submitter) Date

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? Yes No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? Yes No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? Yes No

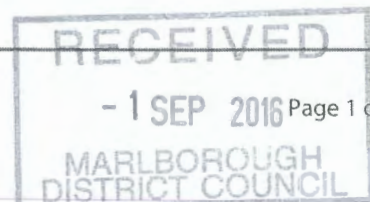
4. Return Submission to:

Attention Planning Technician
Marlborough District Council
PO Box 443
Blenheim 7240

Fax: 03 520 7496

Email: mep@marlborough.govt.nz

For Office Use
Submission No:



5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

Volume 3,
Appendix 6

Continue on a separate sheet if necessary

6. My submission is: (state the nature of your submission whether you support or oppose (in full or in part) specific provisions)

As per attached sheet.

Continue on a separate sheet if necessary

7. The decision I seek from Council is: (where amendments are sought, provide details of what changes you would like to see)

As per attached sheet.

Continue on a separate sheet if necessary

MEP Fresh Water Management Unit (FMU)

Wairua Aquifer Northern, Central and Urban Springs

Submission Form – Wairua Aquifer (Springs)

Submission By: O'Dwyers Creek Vineyard Ltd

76 O'Dwyers Rd. Ph 03-5705443

Submission *Volume 3, Appendix 6.*

We strongly oppose the proposed groundwater cut-off to users in the Central, Northern and Urban Spring sectors based on the water level in three MDC monitoring wells (3009, 4404 and 3954 – Chapter 3, Appendix 6 of the PMEP).

It seems very unfair to limit only Springs sector groundwater users when Wairua groundwater users west of the proposed restriction area are not limited. These western Wairua Aquifer water users have a direct impact on the level of the Wairua Aquifer and therefore spring flows. It seems outrageous that groundwater users located close to the Wratts Rd monitor well 3009 could continue watering unrestricted when Northern Spring sector users are fully restricted.

In 2015, the Wratts Rd well 3009, reached 11.84 mamsl (metres above mean sea level), this is the lowest recorded level since records began and was only 4 cm away from the new proposed limit of 11.8 m for the Northern Springs sector, Appendix 6. The trend over the past 20 years at well 3009 is showing a slow decline in aquifer level. Who knows how often this cut-off level of 11.8 m will be reached in the future?

Further knowledge and understanding is required of the recharge process to the Wairua Aquifer and the relationship between the aquifer and the Spring system before any limits to groundwater users are implemented.

The proposed cut-off could have a significant impact on yield and fruit quality during drought seasons and subsequently have a massive financial impact on our own business as well as those of other Springs sector water users.

Decision Requested

Remove the 100% blanket cut-off to Springs sector water users.

Before implementing a blanket restriction further scientific evidence of the complex aquifer/springs recharge process is required. A better understanding

of the long term trend of the aquifer levels is essential before setting lower limits and cut-off thresholds.

Treat all Wairau Aquifer groundwater users equally and consider implementing a rationing restriction when the monitor wells drop below a set level. This would give all Wairau Aquifer groundwater users the opportunity to prioritise where their reduced volume of allocated water is utilised.

HW
3/1/16

MEP Fresh Water Management Unit (FMU)

Wairua Aquifer Central and North Springs

Submission Form – Wairua Aquifer (Springs)

Submission By: Ormond Nurseries Ltd – 32 ha land, 3 x active bores between Rowley Cres and Mills & Ford Roads

Volume 3

Appendix 6

We strongly oppose the concept of setting limits on groundwater bores in the springs area based on the minimum level in nearby wells.

The proposed plan states that water users in the Springs area will have their water supplies cut off 100% while areas directly the west can continue on 100% unrestricted.

What is being proposed will have a massive effect on our business and the businesses of many of our long term loyal customers located in the “Springs” area.

Without guaranteed water every year we at Ormond Nurseries Ltd have no business. We don't have the ability to stop irrigating. If we stopped irrigation on a crop of young vines it would put us out of business forever and it would severely impact our long term loyal customer base both all over New Zealand. Ormond Nurseries Ltd has been around for 40 years and 21 of those located here in Marlborough.

A proposed water restriction like that contained in the MEP volume 3 appendix 6 is untenable and would force us to shift the business to another part of New Zealand.

Growing a biological crop is hard enough without irresponsible decisions from council about water supply restrictions. Without guaranteed water every year we cannot farm this land with any confidence.

We are in an agricultural industry where you are battling variable climatic conditions. The irrigation systems developed are designed to mitigate against these climatic variations. Not having full availability of water required to meet crop demands during drought conditions is untenable.

Marlborough has built a reputation on producing premium world class cool climate wines, notably Sauvignon Blanc. The quality of every vintage is closely watched by the global wine media. The impact of a drought situation where unreasonable water restrictions are implemented on grape growers will have a serious effect on Marlborough's reputation as a quality wine region. It is absolutely crucial that vines are adequately watered throughout the ripening period for premium fruit production and ultimately wine quality. While environmental protection of our natural resources is very important, we must manage this in a way that will not jeopardise our reputation as a premium wine region.

Decision request

Abolish proposed changes in the MEP which propose to restrict the water users in the “springs” area water levels in nearby wells while leaving users outside the ‘springs’ area 100% unrestricted.

Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Organisation: Starborough Farming Company Ltd

Contact person: James Jones

Date: 29/08/2016

Address for service:

101 O'Dwyers Road
Blenheim 7273

Telephone: 03 5705301

Mobile: 0274 187068

Email:

james@starborough.co.nz

Submitter Number: 141

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 143.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Oppose the specified provisions

My submission is:

We strongly oppose the proposed water limits to Springs Area water users based on monitor wells near and within the Springs sector areas.

It seems very unfair to limit only Spring Creek water users when other water users west of the proposed limit area also have an impact on the level of the Wairau Aquifer. There is a direct correlation between the Wairau Aquifer level and Spring flows (see chart attached).

In 2015 the Wratts Rd well 3009 reached 11.84 m, this is 4 cm away from the new limit, and the trend over the past 20 years is showing a slowly depleting aquifer level (see attached chart). Who knows in the future how often this cut off level will be reached?

Further knowledge and understanding is required of there charge process to the Wairau Aquifer and the relationship to the Spring system before any limits to water users are implemented.

The proposed limits could have a significant impact on the fruit quality from this area during drought seasons undermining the reputation of Marlborough as a wine producing region and could subsequently have a massive financial impact on our own business as well as those of other Springs water users.

I seek the following decision from the local authority:

Remove the blanket cut off to all Springs water .

Treat all Wairau Aquifer users equally (not just Springs sector users),and consider implementing a rationing restriction when the monitor wells drop below the set limit (example. 11.8m for Northern Springs). This would give all farmers/growers the opportunity to prioritise where the reduced volume of available water is utilised (not a blanket cut to only Springs Area – Northern, Central, Urban water users).

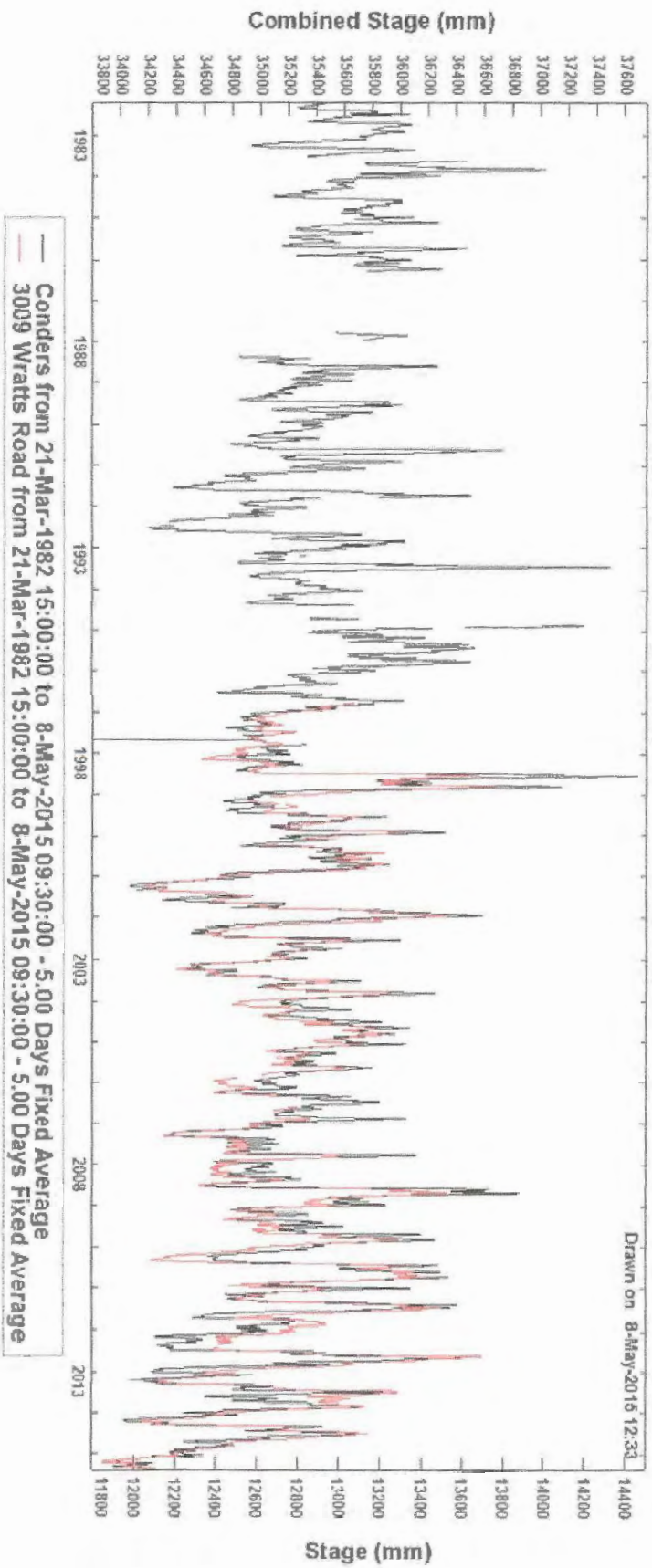
Before implementing a blanket restriction wait for more scientific evidence of the complex aquifer/springs recharge process. A better understanding is required of the long term trend of the aquifer levels before setting lower limits and/or full cut off thresholds.

Attachments

Spring Creek v 3009 Wratts Rd.pdf

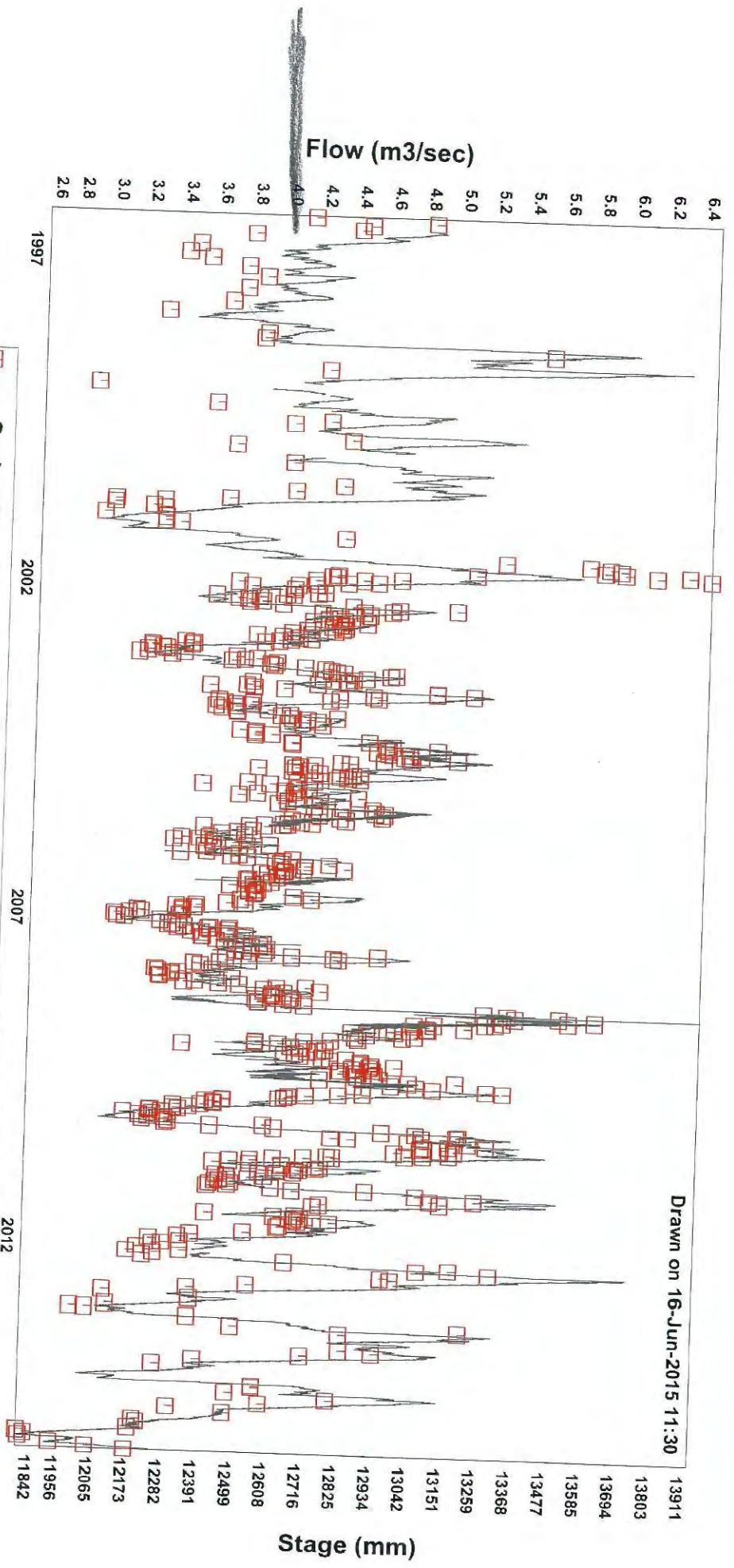
Conder v 3009 Wratts Rd.pdf

Resource status



□ - Spring Creek at Motor Camp from 19-Jul-1996 14:10:00 to 6-May-2015 11:3

— 3009 W/ratts Road from 19-Jul-1996 14:10:00 to 6-May-2015 11:34:02



Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Organisation: Stembridge Vineyards Limited

Contact person:

Date: 30/08/2016

Address for service:

70 Blicks Lane
RD 2
Blenheim 7272

Telephone: 035781991

Mobile: 0272317948

Email:

stembridgevineyards@yahoo.co.nz

Submitter Number: 174

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 176.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Oppose the specified provisions

My submission is:

MEP Fresh Water Management Unit (FMU)

Wairua Aquifer Northern, Central and Urban Springs

Volume 3 Appendix 6

Stembridge Vineyards Limited opposes the proposed groundwater cut-off to users in the Central, Northern and Urban Spring sectors based on the water level in three MDC monitoring wells (3009, 4404 and 3954 – Chapter 3, Appendix 6 of the PMEP).

It is our understanding that other groundwater users to the West of the proposed restriction areas also affect the water levels in the Wairua Aquifer and therefore the spring flows. It seems unfair to limit only Springs sector groundwater users when Wairua groundwater users west of the proposed restriction area are not similarly limited.

As farmers and grape growers on this land for generations, we fully understand the importance of water and its conservation. We appreciate that there are serious issues that need to be addressed in relation to the allocation of this resource. However, we

consider that further knowledge and understanding is required of the recharge process to the Wairau Aquifer and the relationship between the aquifer and the Spring system before any limits to groundwater users are implemented.

The proposed cut-off could have a significant impact on yield and fruit quality during drought seasons and subsequently have a massive financial impact on our own business as well as those of other Springs sector water users.

I seek the following decision from the local authority:

Remove the 100% blanket cut-off to Springs sector water users.

Before implementing a blanket restriction further scientific evidence of the complex aquifer/springs recharge process is required. A better understanding of the long term trend of the aquifer levels is essential before setting lower limits and cut-off thresholds.

RECEIVED

30 AUG 2016

Submission on the Proposed Marlborough Environment Plan

MARLBOROUGH DISTRICT COUNCIL

MARLBOROUGH DISTRICT COUNCIL

Submissions close 1 September 2016

ISO 9001 Document Number: EAF005-CH726

1. Submitter Details

Full Name Mark Robert Taggart

Organisation (if applicable) Tarewi Trust

Contact Person (if applicable)

Postal Address 294 Middle Renwick Rd

R.D.1

Blenheim 7241

Post Code

Contact Details Email Address: tag.jacqui@extre.co.nz

Phone: [Daytime] N/A

Phone: [Mobile] 021 045 0427

Address for Service

(if different from above)

Post Code

Signature (of submitter or person authorised to sign on behalf of submitter) M.R. Taggart

Date 30/8/16

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? [] Yes [x] No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? [x] Yes [] No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? [x] Yes [] No

4. Return Submission to:

Attention Planning Technician Marlborough District Council PO Box 443 Blenheim 7240

Fax: 03 520 7496

Email: mep@marlborough.govt.nz

For Office Use Submission No:

5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

This submission relates to the proposed groundwater cut off to users in the Central, Northern and Urban Spring' sectors based on the water level in the three M.W.G. monitoring wells (3001, 4604 and 3954)

Volume 3
Appendix 6

Continue on a separate sheet if necessary

6. My submission is: (state the nature of your submission whether you support or oppose (in full or in part) specific provisions)

I oppose the total cut off to users in the 'Springs' sectors based on the water levels in the monitoring wells.

The 'springs' are an indicator of the Waikareu Aquifer and shutting off a small amount of users while other users can still draw from the Waikareu Aquifer is not fair or equitable.

As was discussed at last years meeting, to make a decision like this with out any understanding of the recharge and draw down of the Aquifer is unscientific and not logical.

Continue on a separate sheet if necessary

7. The decision I seek from Council is: (where amendments are sought, provide details of what changes you would like to see)

The decision I seek from the Council is to get a better understanding of the Waikareu Aquifer, its relationship with the 'springs'; before implementing any cut-off thresholds.

And to not isolate one group of users of the Waikareu Aquifer; until there is proof that they are directly responsible for the issue related.

Continue on a separate sheet if necessary

Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Organisation: T P McGrail

Contact person: Terry McGrail

Date: 1/09/2016

Address for service:

PO Box 704
Blenheim
7240

Telephone: 928 4058

Mobile: 021 844 942

Email:

terry@ayson.co.nz

Submitter Number: 152

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 154.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Oppose the specified provisions

My submission is:

Fresh Water Management Unit Urban, Central and North Springs proposed changes

The changes proposed set limits on the use of groundwater when the aquifer levels hit certain trigger points.

There has been inadequate consultation and explanation of the proposal.

Restricting irrigation can have serious implications for businesses

The impact of that on individuals cannot be assessed from the material available

The narrow focus on the east part of the Wairau Plain appears to be unfair and causes a greater impact on the Springs residents than a more evenly distributed set of restrictions.

I seek the following decision from the local authority:

Withdraw the change until proper consultation has been carried out

Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Organisation: Walnut Creek Partnership

Contact person: Ed Chapman-Cohen

Date: 1/09/2016

Address for service:

PO Box 27
Spring Creek
7244

Telephone: 03 570 5337

Mobile: 027440551

Email:

ed@remacconsulting.co.nz

Submitter Number: 263

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 264.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision:

I Oppose the specified provisions

My submission is:

We strongly oppose the concept of:

1. Setting groundwater take restrictions for the Northern Springs area based on water levels in monitoring well P28w/3009 and,
2. Setting surface water take restrictions from Spring Creek based on the water Level at the Spring Creek Motor Camp

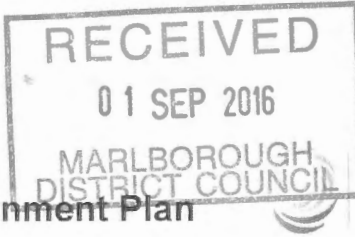
as proposed in Volume 3, Appendix 6 of the Proposed Marlborough Environment Plan. Appendix 6 states that water permits to take groundwater in the Northern Springs area and surface water from Spring Creek will be fully restricted (cut off) when water levels in the monitoring well and at the the Motor Camp drop below specified levels. However, water permit holders in other areas to the west, which have just as much influence on the level of the monitoring well and Spring Creek, can continue to take water without restriction.

- The proposed restrictions will have a potentially huge influence on the ability to utilise the highly productive soils in the Norther Springs area.
- With the potential costs and effects being so significant, there needs to be absolute scientific clarity that the proposed restriction trigger levels are not influenced by water takes and aquifer activity in other nearby areas.

- Part of the justification for the proposed restrictions is the scale of viticulture on the Wairau Plain. There needs to be clarity about aquifer water will be managed and restricted if the wine industry failed and the productive soils were again utilised for food crops that require significantly more water than grapes.
- While this issue is being debated as part of the PMEP process, existing permit holders in the Northern Springs area need absolute clarity from Council about if and when the proposed restrictions apply to their permits.

I seek the following decision from the local authority:

- Defer imposing any groundwater take restrictions for the Northern Springs area based on water levels in monitoring well P28w/3009 and surface water take restrictions from Spring Creek based on the water Level at the Spring Creek Motor Camp until there is absolute scientific clarity about the influences on those water levels.
- Provide clarity to current permit holders as to when the proposed restrictions have effect while being debated through the Plan Change process.



Submission on the Proposed Marlborough Environment Plan

MARLBOROUGH DISTRICT COUNCIL

Submissions close 1 September 2016

ISO 9001
Document Number
EAF0005-C11726

1. Submitter Details

Full Name:

Organisation (if applicable):

Contact Person (if applicable):

Postal Address:

 Post Code:

Contact Details: Email Address:
 Phone: [Daytime] Phone: [Mobile]

Address for Service:
 (if different from above)
 Post Code:

Signature (of submitter or person authorised to sign on behalf of submitter):
 Date:

Subject to the Resource Management Act 1991 (RMA), all information contained in a submission including the name and address of the submitter, will be made publicly available. Submitters have the right to access and correct personal information.

2. Trade Competition

Could you gain an advantage in trade competition in making this submission? Yes No

If you answered yes, please note that there are restrictions on your ability to make a submission. Refer to Clause 6(4) of the First Schedule of the RMA for further information.

3. Council Hearing

Do you wish to be heard in support of your submission? Yes No

If you answered 'Yes' to being heard, would you be prepared to consider presenting a joint case with others who have made a similar submission? Yes No

4. Return Submission to:

Attention Planning Technician
Marlborough District Council
PO Box 443
Blenheim 7240

Fax: 03 520 7496
Email: mep@marlborough.govt.nz

For Office Use
Submission No:

5. The specific parts of the Proposed Plan (Volume, Chapter and Provision No.) the submission relates to are as follows:

Volume 3
Proposed Marlborough Environment Plan (PMEP)
Wairau Aquifer - Central and Northern Springs Sectors
Proposed Restrictions
Volume 3, Appendix 6.

Continue on a separate sheet if necessary

6. My submission is: (state the nature of your submission whether you support or oppose (in full or in part) specific provisions)

I strongly oppose the proposed concept of setting ground water restrictions in Chapter 3, Appendix 6 of the PMEP.
If water became 'fully restricted' to our grape growing property the effect would have huge impact on our ability to maintain a financially viable operation as a result of vine stress.

Continue on a separate sheet if necessary

7. The decision I seek from Council is: (where amendments are sought, provide details of what changes you would like to see)

Remove the full restriction to Springs sector water users.
All Wairau Aquifer groundwater users take responsibility for water levels in a unified effort based on long term documented scientific evidence on how to maintain a sustainable water level.

Continue on a separate sheet if necessary

Marlborough Resource Management Regulations 2003

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Marlborough District Council

Organisation: Welton Vineyards Ltd

Contact person: Wendy Palmer

Date: 30/08/2016

Address for service:

10 Staces Road
Grovetown
Blenheim
7202

Telephone: 021323358

Mobile: 021323358

Email:

wendypalmer1@gmail.com

Submitter Number: 173

I wish to be heard in support of my submission.

Resource Management Plan

- I could not gain an advantage in trade competition through this submission.
- I am not directly affected by an effect of the subject matter of the submission that-
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition

Submission Point: 175.1

The specific provisions of the proposal that my submission relates to are:

Volume: Volume 3

Chapter: Appendix 6 Environmental Flows and Levels

Provision: Schedule 3

I Oppose the specified provisions

My submission is:

Submission on the Proposed Marlborough Environment Plan (PMEP)

Wairau Aquifer - Central and Northern Springs Sectors

Proposed Restrictions Under Volume 3, Appendix 6

SubmissionBy: Wendy Palmer Vineyards Ltd – 7 ha land, 1 x active bores on Staces Road

We strongly oppose the concept of setting groundwater take restrictions in the Northern, Central and Urban Springs area (Springs Area) based on water levels in monitoring wells as proposed in Chapter 3 Appendix 6 of the PMEP.

Appendix 6 states that water permits in the Springs Area will be fully restricted (cutoff) when water levels in monitoring wells drop below specified levels, while permit holders in other Wairau aquifer areas to the west, which have just as much influence on the level of those wells, can continue to take water without restriction.

What is being proposed will have potentially massive effect on our business. We have mature vines and land yet to be developed into vineyard which will be planted within the next 24 months. The new plantings will not survive even an averages ummer without water. The quality of the fruit of the mature plants will also be at potential risk.

Without unrestricted water every year we cannot operate and make business decisions with any confidence. We are continuing to make substantial investment in Marlborough but this relies on having a solid foundation of information.

We understand the data on the bores that measure cutoff is not available until Friday - after the submission date. We would have expected our council to have notified us directly of this substantial change to our business model - we have reviewed parts of the plan and have found it largely impenetrable to the ordinary person.

Marlborough has built a reputation on producing premium world class cool climate wines, notably Sauvignon Blanc. The quality of every vintage is closely watched by the global wine media. The impact of a drought situation where unreasonable water restrictions are implemented on grape growers will have a serious effect on Marlborough's reputation as a quality wine region. It is absolutely crucial that vines are adequately watered throughout the ripening period for premium fruit production and ultimately wine quality.

While environmental protection of our natural resources is very important, we must manage this in a way that will not jeopardise our reputation as a premium wine region and there has to be a careful and considered weighing up of the economic consequences to the region of changes such as those proposed. We, as economic stakeholders, should have had this brought to our attention in a much more meaningful way than as it was, buried in appendix 6 of volume 3. It is also deeply unfortunate that you cannot supply any scientific information that would make analysis of this proposal more factual before the closing of submissions. How was this proposal concluded if this information cannot be given immediately? Surely there must be a report?

In summary I am strongly opposed to this proposal that seems unfair, based on scientific data that is unavailable to those affected and has paid no heed to the potential economic consequences to the region.

I seek the following decision from the local authority:

Remove the limits for the Northern, Central and Urban Springs from Appendix 6 (inferred).

Water Allocation

Background

8. This chapter approaches the decision making on the basis that recognises the major issue is complex in that it is addressing water availability predominantly in the Wairau Plain and also in other catchments where limits on volumes of surface flows and aquifer levels are either directly or indirectly linked. By way of example, on the Wairau Plain, two-thirds of the surface flow is absorbed into the Wairau Aquifer within a relatively short distance downstream of Conders Bend and surface flows and aquifer levels there are directly interlinked. The evidence is that the southern valley aquifers will either have direct or indirect linkages to the Wairau Aquifer. It is very difficult to deal with each of these issues separately and for this particular decision we have therefore approached all of those contributing issues to the fixing of limits on surface flows and aquifer levels in the one substantial consideration.
9. As a consequence the format used for the discussion of limits on surface flows and levels in aquifers will be different in this topic decision from that utilised generally in other topic decisions because the interrelated evidence of submitters and report writers will be addressed as part of a general consideration. However, the important Te Mana o te Wai issue, which is at the commencement of this topic decision, does follow the normal format. Other decisions following the consideration of limits on surface flows and aquifer levels similarly revert to that decision format.
10. One of the most pressured public resources in a dry climate province like Marlborough is the freshwater resource available from its aquifers and surface flows in rivers and streams. Chapter 5 of Volume 1 of the PMEP addresses that issue and is entitled 'Allocation of Public Resources'.
11. The RMA (s 67(1)(a)) requires that all regional councils must give effect to a National Policy Statement in their various plans. In accordance with the parlance required by the National Policy Statement for Freshwater Management 2017 (NPSFM 2017) each of those resources are called a Freshwater Management Unit (FMU) in the PMEP. The FMUs are mapped in Volume 4 of the PMEP as part of the Overlays section..
12. The NPSFM was first issued in 2011, amended in 2014, and again in 2017. (As if that was not enough of a moving target, as this present decision was being written, the Government has announced an intent to issue a further amended NPSFM. The draft of that was released for public response in early September, 2019, but as it will not be operative before our decisions are released we need only address the 2014 and 2017 versions.) The 2014 version of the

NPSFM was the version that the PMEP as notified sought to give effect to, but as the 2017 NPSFM is now operative we are bound to give effect to it in our decision.

13. The 2017 NPSFM importantly contained a significant additional recognition of water quality protection by incorporating, largely at the repeated request of iwi interests throughout the country, the concept of Te Mana o te Wai. Objective AA1 of the NPSFM 2017 provides:

To consider and recognise Te Mana o te Wai in the management of fresh water.

14. That recognition of Te Mana o te Wai for the first time provides a statutory base to the fundamental concept of a sustainable bottom line being necessary to be fixed in plans for each FMU. The purpose of the bottom line is to protect the life force in ecological and water quality terms of a river (or FMU) for it to be able to maintain its mauri – the essence or life force of an FMU. The concept is relevant then not only to maintenance or restoration of water quality, but also to maintenance of water quantities within FMUs to maintain Te Mana o te Wai.
15. The PMEP has two appendices, 5 and 6, which are directly relevant to the both the concept of Te Mana o te Wai and the objectives and policies in Chapter Five of the PMEP which govern the allocation principles expressed in those objectives and policies. Those appendices are entitled:

Appendix 5 - Water Resource Unit Values & Water Quality Classification Standards

Appendix 6 - Environmental Flows and Levels

16. Appendix 5 contains two schedules, Schedule 1 – Water Resource Unit Values, and Schedule 2 - Water Quality Classification Standards. Schedule 1 is particularly relevant to the allocation of water resources, as it identifies and describes the values of what are described as Water Resource Units, which for practical purposes relate to the FMUs in Appendix 6.
17. Appendix 6 fixes the allocation quantities able to be sustainably taken while maintaining environmental flows and levels. Appendix 6 is comprised of a number of schedules the most important of which, for the purposes of this decision, are Schedule 1 – Quantity Allocations for Water Takes, and Schedule 3 - Minimum Flows and Levels for Water Takes.
18. Schedule 1 of Appendix 6 fixes maximum quantities able to be sustainably taken expressed on a daily basis for surface FMUs, and on an annual basis for subsurface aquifer FMUs. Of particular significance in the Awatere, but potentially increasingly in the Wairau catchment, for some FMUs the surface flow allocations are divided into three classes A, B and C. C class takes are for very high flow storage takes (usually in winter), B class only available for higher

flow irrigation takes, with A class being available for takes all year - provided minimum flows or levels specified for FMUs in Schedule 3 of Appendix 6 are maintained.

19. Schedule 3 of Appendix 6 provides the 'bottom line protections' for FMUs by fixing aquifer levels and surface flow volumes at which abstraction must cease, or in some cases where rationing of takes commences on a reducing basis until cessation. It also fixes the monitoring location where those flow or level assessments are to be made. An important exception is the Wairau Aquifer which does not have cut-off levels fixed for reasons that will be traversed later.
20. Another background document which must be referred to at this introductory stage is the Proposed National Environmental Standard on Ecological Flows and Water Levels. That document was released as a draft for discussion by the Government in 2008 as an interim measure pending the setting of limits in a regional plan.
21. The nature of this draft was expressed as follows in 2008:

The Proposed National Environmental Standard on Ecological Flows and Water Levels is to promote consistency in the way we decide whether the variability and quantity of water flowing to rivers, ground water systems, lakes and wetlands is sufficient.

It would do this by:

- setting interim limits on the alteration to flows and/or water levels where limits have not been imposed through regional plans or water conservation orders*
- providing a process for selecting the appropriate technical methods for evaluating the ecological component of environmental flows and water levels.*

(Panel's underlining for emphasis)

22. It is important to emphasise the interim nature of this proposed standard, which has never become operative, largely because it has been superseded by the 2011 NPSFM and the two later 2014 and 2017 versions of the NPSFM.
23. With the massive development and expansion of the viticulture industry in the Wairau and Awatere catchments in recent decades, the FMUs in those catchments have come under pressure, particularly in dry summers towards the end of the irrigation season as river flows and aquifer levels reduce. In drier recent years flow rates and aquifer levels have reached the point where cessation of takes has either had to occur or has been on the brink of occurring.

24. The A class allocations in most FMUs in the Wairau and Awatere are, for historical reasons, over-allocated. The increase in intensive dairying in some of the Pelorus feeder catchments, particularly those rivers such as the Opouri, Ronga and Tunakino, has also resulted in increased irrigation pressures. Those smaller FMUs have limited aquifer structures and relatively small surface flows which in some cases dry up in an irrigation season.

Submissions

25. A major issue, both in submissions and in evidence at the hearings, was the surface flow rates fixed in the Wairau River itself. In essence, the flow rates fixed in the PMEP were challenged by some submitters, particularly led by Fish & Game², as being unsustainable in terms of protection of in-stream ecological values, particularly for the habitat necessary for the trout fishery.
26. Another major feature identified in various policies, and in the limits contained in the schedules to Appendix 6, is the complex interrelationship between surface flows and subsurface aquifers, particularly in the major Wairau Springs aquifer areas, but generally in relation to all aquifer FMUs other than the Wairau. The levels fixed for aquifers in Schedule 6, particularly in the Wairau catchment, were consequently the focus of considerable attention both in submissions and in evidence at our hearings.
27. In addition to those issues, most of which attracted significant input by way of evidence at the hearings, we also considered a very large number of other submissions on the various aspects of water allocation. (As has occurred generally in the PMEP decision, to save unnecessary repetition, where we agreed entirely with the reasoning and recommendations of the Section 42A Report or Reply to Evidence we have not repeated those conclusions.)
28. Much of the content of this decision will, therefore, be occupied with addressing submissions focussed on the Te Mana o te Wai and sustainability concepts, as reflected in various policies of the Plan and in Appendix 5; and the two major issues of the effects of allocation of resources on Wairau surface flows and aquifer levels as set in Appendix 6 – both of which had many sub-sets of issues related to them raised in submissions.

Te Mana o te Wai

29. The NPS states:

The matter of national significance to which this national policy statement applies is the management of fresh water through a framework that considers and recognises Te Mana o te Wai as an integral part of freshwater management. ...

² 509.37

Te Mana o te Wai is the integrated and holistic well-being of a freshwater body.

Upholding Te Mana o te Wai acknowledges and protects the mauri of the water. This requires that in using water you must also provide for Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tangata (the health of the people).

Te Mana o te Wai incorporates the values of tangata whenua and the wider community in relation to each water body.

The engagement promoted by Te Mana o te Wai will help the community, including tangata whenua, and regional councils develop tailored responses to freshwater management that work within their region.

By recognising Te Mana o te Wai as an integral part of the freshwater management framework it is intended that the health and well-being of freshwater bodies is at the forefront of all discussions and decisions about fresh water, including the identification of freshwater values and objectives, setting limits and the development of policies and rules. This is intended to ensure that water is available for the use and enjoyment of all New Zealanders, including tangata whenua, now and for future generations.

30. This issue also brings into play a range of policies in the PMEP under Objective 5.2. It responds to Issue 5B which is expressed as follows:

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

31. Objective 5.2 then provides:

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.

32. The policies which give effect to that objective which are of particular relevance are policies 5.2.1, 5.2.2, 5.2.3, & 5.2.11. They link to Appendix 5 as to identified resource unit or FMU values. The combination of the policy suite of those four policies and the FMU resource unit values in Appendix 5 underlie the rationale for the limits set in Appendix 6.

33. The suite of policies provides as follows:

Policy 5.2.1 – Maintain or enhance the natural and human use values supported by freshwater bodies.

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

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.

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 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).*

Submissions

34. Ngai Tahu³ supported the objective but sought that it be strengthened to recognise and protect the inherent values of the water resources themselves stating:

The intent of the objective is largely supported however the outcome of the objective is not clear. The objective also presumes a philosophical approach whereby freshwater resources need to only be protected to a sufficient level that will support human use. As indicated in the introductory section, Ngai Tahu is of the view that allowance needs to be made for the resource itself not to just function and survive, but to maintain healthy levels, at the same time as providing for the sustainable use of the resource. This is consistent with Policy 5.2.2.

35. Ngai Tahu's submission in respect of Objective 5.2 sought the following amendments:

Safeguard the life-supporting capacity of freshwater resources by retaining sufficient flows and/or levels for the health of the resource as a first priority, followed by natural and human use values supported by waterbodies

Section 42A Report

36. The report writer considered that the addition was unnecessary as the notified version of the Plan recognised and protected 'natural values'. She emphasised that the explanation to the objective made that very plain.

Consideration

37. The Panel considers that the use of the term 'natural and human use' does not adequately capture the intent of Te Mana o te Wai that seeks to protect the values of the river which the NPS places at the 'forefront of all discussions and decisions about freshwater'. Therefore the Panel has decided an amendment to Objective 5.2 and its associated policies is required. The Council is required to give effect to the NPS and therefore must include provisions that achieve this.

Decision

38. Objective 5.2 and its explanatory statement are amended as follows:

Objective 5.2 – Recognise Te Mana o te Wai and ~~s~~Safeguard the life-supporting capacity of freshwater resources by recognising the connection between water and the broader environment and retaining sufficient flows and/or levels required for the natural and human use values supported by waterbodies.

³ 1189.035

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. Objectives AA1 and B1 of the NPSFM require Council to recognise and consider Te Mana o te Wai in the management of fresh water, and to safeguard the ~~also requires~~ life-supporting capacity, ecosystem processes and indigenous species of freshwater resources ~~to be safeguarded~~. Objective 5.2 reflects the need to recognise Te Mana o te Wai and safeguard the life-supporting capacity of Marlborough’s freshwater bodies when managing the taking, damming or diversion of water.

39. Replace the notified Policy 5.2.2 and its explanatory statement with the following:

Policy 5.2.2 – Recognising Te Mana o te Wai gives priority to the integrated and holistic well-being of freshwater.

The National Policy Statement for Freshwater Management 2017 (NPSFM) provides councils with direction on how freshwater is to be managed through an objective and policy framework. Objective 5.2 requires councils to consider and recognise Te Mana o te Wai in freshwater management, and the policy requires councils to consider and recognise Te Mana o te Wai when making or changing regional policy statements and plans, noting that:

- (a) Te Mana o te Wai recognises the connection between water and the broader environment – Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tangata (the health of the people); and*
- (b) values identified through engagement and discussion with the community, including tangata whenua, must inform the setting of freshwater objectives and limits.*

To achieve this, council and communities, including Marlborough’s tangata whenua iwi, will come together and discuss what values they hold for the freshwater bodies in their rohe (geographical area) or areas of statutory acknowledgement, and set freshwater objectives and limits in response to this. This will include identifying what Te Mana o te Wai means to the Marlborough community. Marlborough’s tangata whenua iwi often use terms like mauri 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. The taking, damming or diversion of water can adversely affect the mauri of water.

Te Mana o te Wai will assist in building a greater understanding amongst the community of the integrated and inter-connectedness of values and their role in managing freshwater resources.

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. Te Mana o te Wai will build on this process.

40. Insert a new method as 5.M.1 (with subsequent numbering changes), as follows:

5.M.1 - Setting community values – Te Mana o te Wai

Council will work with communities, including Marlborough's tangata whenua iwi, to identify values and use them to inform the setting of freshwater objectives and limits.

Limits to Allocation of Water

41. As the aquifer replenishments, and aquifer levels restricting takes, (which drove a large number of the submissions on aquifer allocations), are both interrelated with Wairau surface flows, either directly or indirectly, it is best to record conclusions first on those surface flow rate issues.
42. Policies 5.2.4, 5.2.5, 5.2.11 and 5.2.13 combine with Appendix 6 to set limits on the total amount of water available to be taken from FMU's in accordance with Policy B1 of the NPSFM 2017. Policy B1 of the NSPFM requires the environmental flows and/or levels to be set together with allocation limits. Policies 5.2.4 and 5.2.11 also have relevance to the values protected by the setting of limits so were set out above when considering Appendix 5.
43. The other policies relevant to limit setting in Appendix 6 are policies 5.2.5 and 5.2.12, 5.2.13:

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.

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.

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.

Wairau Surface Flow Rates & Aquifer Levels submissions

44. A range of submissions were lodged in respect of Objective 5.2 and its related policies coming from quite markedly differing positions, particularly in relation to the Wairau surface flows and the related more southern Wairau aquifer levels. The basic cut-off rate for takes in the lower Wairau is set in Appendix 6 at 8 cumecs at Barnetts Bank (a recorder location on the north bank of the Wairau just upstream of the Tuamarina Bridge over SH 1).
45. Some submissions from the irrigation sector essentially sought variously modification of these policies so as to enable continued takes without reduction; or incremental rationing or reductions over time; or some level of prioritisation as restrictions start to apply; or even prioritisation for what were asserted to be 'essential' or 'survival' activities, i.e. activities which could not survive the cut-off of water at all, or which would fail to survive extended cut-offs of supply. In summary those types of submissions came from the end of the spectrum that asserted the PMEP restrictive provisions were too harsh, and needed relaxing to some extent.
46. At the other end of the spectrum were a range of submissions seeking to support the Te Mana o te Wai or sustainability bottom lines in the PMEP; or, as in the case of Nelson Marlborough Fish and Game (Fish & Game), expressly seeking that the PMEP restrictions be raised in the Wairau to at least 13 cumecs, but preferably greater than that, and increased also in other catchments so as to provide greater protection for Te Mana o te Wai, or sustainability of natural habitat.
47. In essence, the position adopted by the report writers in respect of the major Wairau resource adopted a position of support for the PMEP as notified. In practical terms that constituted a position lying somewhere between the positions of those seeking reduced flow rates or aquifer levels before cut-offs are triggered for irrigation takes, (which inherently reduces the level of protection derived from residual flows), and those seeking amended provisions retaining greater residual flows in the river.
48. A clear example of these differing positions adopted in the submissions and the PMEP provisions arose from the Fish & Game request in respect of the Wairau seeking greater protection for in-stream values, by flow rates being fixed much higher than the PMEP provides. As mentioned above, the figure of 13 cumecs was stressed as being a minimum flow rate to sustain natural habitat supporting a trout fishery.
49. The Fish & Game arguments in support of that proposal are a useful start-point from which to commence a consideration of the relevant objective, policies and appendices in the PMEP.

That is because consideration of their request for increased river flows in the Wairau will traverse or encompass most of the issues raised in other submissions adopting either a similar approach, or an opposing approach. That is so whether the issue being considered relates to the values sought to be protected by residual flow rates or aquifer levels, or the actual flow rates or levels fixed themselves.

50. In the Panel's assessment the arguments each way on the residual surface flow rate largely came down to a choice between a methodology used in the PMEP based on decades of practical observation, coupled with experienced hydrological assessment of daily extraction fluctuation effects, as against a calculated artificial assessment of what are described in hydrological terms as 'naturalised' flows as provided for in the 2008 draft Proposed National Environmental Standard on Ecological Flows and Water Levels (hereafter 'draft 2008 NES').
51. The case advanced by Fish & Game was that its methodology, provided to the Panel and described by its expert hydrological witness Ms Watson was based on an attempt to 'naturalise' Mean Annual Low Flows (MALF) by adding back into the record of measured flows in lower reaches, those extractions caused by other activities or takes. That approach was based on the draft 2008 NES methodology which was advanced before the Panel as being a methodology we should give effect to as being contained in an NES, albeit a draft one.
52. The primary flaw with this methodology is that it is of course an artificial or 'constructed' method of ascertaining flow rates. That 'constructed' naturalised flow rate is then advanced as being, in an ideal world before the extractions occur, what should be regarded as the 'natural' flow rate for that surface flow.
53. As was stated in the introduction to this part of the decision, this 'naturalising' methodology in the draft 2008 NES was only ever suggested to assist those regions where plans did not set flow rates or aquifer levels, and it was expressly stated to be an interim measure.
54. It bears repeating that the wording in the introduction to the draft 2008 NES was as follows:

It would do this by:

- setting interim limits on the alteration to flows and/or water levels where limits have not been imposed through regional plans or water conservation orders

(Panel's underlining for emphasis)

55. That is simply not the situation with the PMEP. The PMEP specifically sets flow rates and aquifer levels at which cessation of takes are required, i.e. limits have been imposed, which are specifically designed to maintain the bottom line environmental values.

56. Moreover, the Panel has also taken into account the fact that the draft 2008 NES was only ever issued in draft form, and it was never made operative. It is not for the Panel to speculate as to why it was not taken through the full range of consultation and decision-making to be made operative. But what can be taken into account is that the 'naturalising' methodology has no binding statutory force.
57. And the Panel was not persuaded either that it was a reliable base against which to impose such hard practical effects as irrigation cut-offs with their devastating financial impacts on production, when a valid practical, tested and measured alternative methodology was available which was used for setting limits in the PMEP. That was particularly so when the artificially constructed or 'naturalised' flows are compared to the hard practical factual base upon which the daily flow rates and aquifer levels were set in the PMEP.
58. We also accept that daily flow rates, in particular for a surface water FMU like the Wairau, have no definitive 'natural' precisely measurable constant figure. That is because a range of natural and man-made influences can affect exact flow rates on any particular day depending on the time of day the rate is measured. And for aquifers, drawdown effects from irrigation pumping usage throughout a day (or night even) can make for potentially significant fluctuations in aquifer levels.
59. For surface flows in the Wairau, one example alone shows that the nature and extent of those fluctuations can be very graphic. At the Branch River catchment some 40-50 kilometres up the Wairau Valley from the crucial flow rate measurement point at Barnetts Bank is the Trustpower hydro scheme. It is essentially a run of the river scheme with limited storage capacity. However, it has sufficient storage that its releases of stored water can be varied to maximise the return on hydro power generated to enable releases to be planned to coincide with high electricity income return periods. Commonly that might occur with two or three day separation periods between releases.
60. Depending on both quantity and duration of releases from the Branch Scheme the increases in downstream flow rates can vary significantly in the lower reaches, but releases can commonly increase the flow rate downstream significantly for a period of time. Sometimes at low flow rates that can be by a factor of nearly double the residual flow rate.
61. One of the arguments raised in relation to these issues by Fish & Game was that a serious risk to natural habitat can arise if a flow rate is set so low as to result in 'flat-lining' of flows which are unnatural. The Panel struggled to understand how such a proposition could be seriously advanced in relation to the Wairau. The frequent Trustpower releases from the Branch power

scheme alone remove any reality to 'flat-lining' risk. They are significant flows of up to approximately 5 cumecs in volume. Normally the fluctuations are about 20% of flow which when compared to lower flow levels will often be close in volume to the low flows themselves. In addition irrigation takes also cause fluctuations of significant sizes necessitating the policy response in Policy 5.2.6 of a daily average for flow assessment as follows:

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).

62. Such fluctuations make the measurement of daily flow rates and decisions as to cut-offs very challenging. But flow rate monitoring of measured surface flows at low levels, and actual measurement of aquifer levels can still get much closer to reality than a calculated annualised 'naturalising' of flows by adding back in calculated volumes on an annualised basis.
63. A further, major apparent flaw in the evidence as to attempted 'naturalising' of flows was the lack of any realistic attempt to quantify the effects on surface flows of the significant infiltration which occurred to the Wairau Aquifer from natural processes, and how that was impacted by the re-watering that occurred through the diversion of Waihopai waters into the Gibsons Creek system as part of the Southern Valleys Irrigation Scheme (SVIS). In general terms it was described to the Panel that up to two thirds of the flow upstream of the Waihopai junction could be absorbed into the aquifer between there and the Barnett's Bank recorder position near Tuamarina.

Similarly, the effects on surface flows of forestry plantings, (which in recent years have expanded into the upper Waihopai catchments in a major way), and the harvesting of mature forests, (which is now occurring on a significant basis in various catchments such as the Wairau and Pelorus), were not well addressed in the 'naturalising' approach. Yet those effects are likely to be potentially significant and complex on surface flows downstream.

64. Given all of the complexities of the various major inputs and extractions, both natural and man-made, into and from surface flows, the Panel accepts that a considerable level of experienced observation and judgment is required to set cut-off flow rates or levels in such a markedly fluctuating scene. In the Panel's view, use of close long term observations and recording of actual outcomes is far more reliable as a base when assessing and setting flow volume limits and aquifer levels, than attempting a well-nigh impossible task of trying to artificially re-create a 'naturalised' flow or level.

65. The PMEP cut-off limits have been set based on the experienced judgment of objective Council engineering staff with decades of experience.
66. The Marlborough region is fortunate to have had the same professional senior staff objectively observing and managing these resources for some decades. Professional hydrological personnel such as Mr Peter Davidson and Mr Val Wadsworth have had decades of experienced observation of actual measurements over a range of seasonal effects and drawdown pressures, to be able to respectively develop the aquifer level and surface flow cut-off levels so as to maintain a level of ecological sustainability. They have had the added advantage of being able to set those rates and levels in close consultation with Mr Peter Hamill a highly experienced freshwater ecologist, who similarly has had the benefit of practical in-stream observations and research in Marlborough's rivers for decades over a range of seasonal and drawdown effects.
67. A report as to the minimum surface flows required to sustain the Wairau in-river ecology at a level which maximised habitat for trout was advanced by Fish & Game in the form of a Cawthron report 2505 prepared by J. Hay & J.N. Hayes in 2014 addressing the Wairau River Sustainable Flow regime based on a cut-off of takes measured at 8 cumecs at Barnetts Bank. That report by two experts in trout habitats and species concluded that increased flows above 8 cumecs would provide much enhanced in-stream habitat conditions for trout. The Panel also had before it a report by J.D.Stark (Stark Environmental Report 2014) which commented on the Cawthron report by Hay & Hayes. The Stark report agreed with the base proposition in the Cawthron report that increased flows would provide better in-stream habitat.
68. However, significantly the Stark report also concluded that while the lower cut-off might mean a lesser number of individual trout may be able to be sustained in such low flow conditions, that did not mean there would be a change in species composition or a loss of species such as trout inhabiting the river in overall terms. The Section 42A Report at paragraph 303 made it plain that Mr Hamill agreed with those conclusions.
69. The Panel had before it evidence from Fish & Game of the gathering of trout in large numbers (approx. 300) in a deep pool at the mouth of the Waikakaho 2019 in severe drought conditions. Fish & Game advanced that fact as being indicative of a serious problem with low flows at or about the 8 cumec volume.
70. However, that evidence accords with other evidence from the Stark report and Mr Hamill that such outcomes were to be expected, i.e. that in low flow conditions trout will either head for higher flows upriver, (upstream of where natural reduction in flows occur into Wairau

aquifer), or will seek refuge in deeper colder water where colder subsurface flows enter the Wairau from, in this case, the Waikakaho gravels.

71. Mr Hamill's views were particularly persuasive with the Panel when he emphasised that if the 8 cumec cut-off had not worked there would be evidence of serious prejudice to trout fishery in the Wairau, or widespread trout mortality, and that there is an absence of any such evidence. In fact to the contrary, the evidence is that the trout fishery in the Wairau is still healthy, and according to Mr Hamill the natural fishery is also resilient and bounces back after each drought event.
72. Furthermore, the Panel has had the benefit of being able to assess Mr Hamill's views against the outcome and reliability of their joint hydrological and ecological management of these fluctuating physical factors by reference to other objective factual markers.
73. One of the strongest arguments against propositions that the Wairau levels are fixed too low is the very evidence that Fish & Game have provided of the Wairau being a nationally significant trout fishery and, most importantly, continuing to be so. Similarly, too, in respect of their arguments about the levels of the Pelorus smaller catchment flows.
74. Particularly given the increase in return frequency of lower flow rates in the last two decades, if the Fish & Game proposition was correct, one would have expected there to have been a very strong body of evidence available of widespread obvious trout mortality, or at the least, of massively reduced trout population figures showing up on drift dives or on catch records. No such dramatic or strong body or evidence of those types of outcomes was provided. And that is probably not too surprising given the evidence the Panel heard of the ability of trout to move upriver in low flow conditions, or to seek refuge beside streams with underground flows such as the Waikakaho, or to be sustained by intermittent releases from the Branch power scheme.
75. Whatever may be the reasons for trout survival, the outcome is clear from the Fish & Game evidence that a strong sustainable nationally significant trout fishery has been maintained in the Wairau over recent decades even with a low flow cut-off of 8 cumecs. That situation of a continued strong trout fishery would not exist had the Council's minimum flow rate been too low. That reality provides strong objective support for the proposition advanced by the report writers that the 8 cumecs cut-off provided for in the PMEP has worked over recent years in protecting the habitat for trout sufficiently to enable an international fishery in the Wairau to be maintained.

76. The Panel was not persuaded by the evidence of Ms Watson or the other Fish & Game witnesses that the artificial 'restructure' involved in her attempt at 'naturalising' flows was either accurate or sufficiently reliable to rely upon, or that there was even any need to attempt to apply such a 'naturalising' approach.
77. Similar conclusions were reached by the Panel in respect of the conflicting evidence in respect of flows in the Pelorus and Kaituna systems. The long experience of the report writers in the Pelorus feeder catchments in the upper Rai system and the Kaituna was similarly persuasive, supported again by evidence of a sustained trout fishery of importance once again in the Pelorus, despite commonly recurring periods where some of the feeder catchments dried out over lengthy distances. The Panel accepted the evidence of Mr Hamill in that respect.
78. The thrust of his and Mr Wadsworth's evidence was that those Rai sub-catchments had relatively restricted small, thin aquifers and in sustained drought periods, regardless of effects of irrigation use, would dry up for lengthy distances. (And the same conclusions applied for the Kaituna). While those events naturally would result in some limited mortality for fish species and other in-river fauna, both natural and introduced which were caught in the last remnant pools of dry river stretches, the great bulk of the population survived by either withdrawing up or downstream to higher flow areas, or in the case of some particularly resilient native species, by survival in wetted remnant gravel or mud areas. When flows recovered the full riverbed length would be re-occupied.
79. In short, the report writers' evidence was that the species in these rivers had methods of adapting to inevitable periods where surface river flows ceased and the volumes at low flows were so small that the cut-off levels fixed in the PMEP, which were conservative, had little real effect on extending the duration of dry riverbed periods and probably none in reality on the length of dry river beds in physical terms.
80. In the Awatere catchment once again the evidence of long-term close observation of closely controlled cut-off limits was highly persuasive for the Panel. The limits in that catchment did not really come under serious criticism as they have been proven to work in practice, and as far as Fish & Game were concerned that fishery is also adversely affected by the heavy siltation load carried in the Awatere.
81. As to surface flows Policies 5.2.4, 5.2.5, 5.2.11, 5.2.12 and 5.2.13 as they combine with Appendices 5 and 6 are retained as notified.

Request by users for decreased cut-off levels or volumes

82. As described earlier, several submitters at the other end of the spectrum asserted that cut-offs for takes from aquifers based on the surface flow volumes or aquifer levels in the Wairau were too harsh and/or unfair or illogically inflexible.
83. Alternatively, others suggested that their particular activities were so sensitive to any cut-off in supply that they should be treated differently and be allowed what some submitters described as a 'survival' allocation.
84. The Panel's views on the arguments about cut-offs fixed in relation to surface flows in the Wairau are really sufficiently described above that they do not need repeating. The levels have been fixed based on long expert experience of what minimum flow levels are needed to be maintained so as to maintain Te Mana o te Wai or the sustainability of natural habitats and riverine fauna.
85. The criticisms of the cut-off levels for aquifers were predominantly in respect of two separate issues – the unfairness asserted as to cut off aquifer levels for the Springs aquifers when the Wairau aquifer had no aquifer level cut-offs; and the second – the illogicality of cut-off levels when extractions in the southern valleys aquifers may not be directly affecting the relationship between aquifer levels and surface flows.

Wairau aquifer and Springs FMUs issue

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.

86. The treatment of the identification of the interlinked aquifers under the Wairau Plain is achieved in the PMEP by overlay mapping of different FMUs in Volume 4 under the title of Freshwater Management Unit Map 1. The naming of individual aquifers on that map are as follows:

Wairau Aquifer – the largest physical aquifer area encompassing the northern plain area from the Wairau/Waihopai junction to the sea

Lower Waihopai – FMU includes surface flows as well as some areas of aquifer

Omaka River – which includes part of the aquifer system surrounding Woodbourne.

Omaka Aquifer – western most Southern Valleys aquifer

Brancott- Southern Valleys aquifer immediately adjacent to east of Omaka

Benmorven – Southern Valleys aquifer adjacent to east of Brancott

Southern Springs – Wairau aquifer adjacent to north of Benmorven

Taylor – FMU includes surface flows as well as some areas of aquifer

Rarangi Shallow – includes some overlap with north east corner of Wairau aquifer.

Riverlands – FMU includes aquifers in Riverlands area

87. However, the overlay Freshwater Management Unit Map 3 provides more detail of the Wairau Aquifer breaking it down further with the following FMU identifiers being mapped in the central Wairau Aquifer area from north to south:

Northern Springs Sector

Central Springs FMU

Urban Springs FMU

88. The boundaries of these FMUs do not follow strict road lines or river lines as between the Northern Sector and the Central Springs. The northern boundary of the Northern Springs aquifer uses as its eastern boundary the line of SH 1. The southern boundary uses the junction of Murrays Road, Mills and Ford Road and SH 1 as the easternmost start point, and then follows a straight line to the west to almost intersect with Hammerichs Road just below its intersection with Giffords Lane.
89. The southern boundary of the Southern Springs uses the line of Old Renwick Road and Lansdowne Street as the boundary with the Urban Springs FMU to the south. To the east it uses the line of SH 1.
90. The hydrological evidence was that all of these aquifers, including the Wairau Aquifer, are directly inter-related, but that the Springs aquifers have different sensitivities in ecological terms in that they break out to the surface of the plain forming surface flows downstream, such as Spring Creek. These aquifers also provide water supply for numerous aquifer sourced rivers, streams and creeks of a similar nature to Spring Creek, or supplement other surface flows from underground spring sources sourced from the various aquifers.
91. The PMEP has cut-off levels for these three Springs aquifers but the Wairau Aquifer does not have a cut-off level set yet as there is inadequate data held by Council as to the rates and volumes of takes because of a lack of metering of those factors until recent years when renewals of take permits have enabled the imposition of conditions requiring metering. Particularly in the case of the Northern Springs Sector and Central Springs FMU, their monitoring wells are respectively within the Wairau Aquifer or very close to its boundary in

terms of above ground distance, and they and the Wairau Urban Springs aquifers all have levels set requiring cut-offs to protect surface water flows, whereas the Wairau Aquifer does not.

92. The practical result of the differentiation in treatment of the various aquifer cut-off levels or flows was described graphically in evidence by Mr James Jones. He described how in the Rapaura area in high summer drought conditions one could drive down Hammerichs Road and see desperately dry land and crops to the east within the Northern or Central Springs FMUs unable to be irrigated as levels requiring cut-off had been hit.

Yet identical land and crops to the west within the Wairau Aquifer FMU, only a hundred metres or so away in an upstream direction, were still being irrigated because the Wairau Aquifer does not have cut-off levels set yet. The same outcome occurs, of course, for the Wairau Urban Springs aquifer where cut-offs can occur while takes still continue from the Wairau Aquifer.

93. (A different issue arises further to the east immediately adjacent to the sea where the Wairau Aquifer is divided into three FMUs in overlay Freshwater Management Unit Map 3. Those FMUs are identified as follows from north to south:

Wairau Aquifer Coastal North FMU

Wairau Aquifer Coastal Central FMU

Wairau Aquifer Coastal South FMU

94. However, the principal rationale for those FMUs having cut-off levels set is to protect against over-allocation given the risk that might lead to of devastating adverse effects of salt-water intrusion – see Policy 5.2.12.)
95. A common characteristic, however, for both the coastal and springs aquifers is that once again over decades practical close observations have occurred by highly experienced Council staff of the relationship between the aquifer levels and sustainability of surface flows on the one hand for the Springs aquifers, and on the other for the coastal aquifers the relationship between aquifer levels and the pressures needed to be maintained within them to ensure salt-water intrusion effects do not move inland.
96. In other words the levels needed to be maintained so as to ensure maintenance of Te Mana o te Wai within the aquifers and the sustainability of the surface flows that they provide for, or the aquifer pressures that need to be sustained to avoid inland movement of salt water, have

been able to be assessed and fixed based on those decades of experienced observation and measurement.

97. The Panel accepted the criticism from many submitters that on the face of matters it was unfair to have no aquifer level set for cut-offs of takes from the main Wairau Aquifer when other adjacent aquifers had cut-off levels set. That was explained by the report writers as being the unfortunate result of historical takes not always being metered and hence there was not the accuracy of take information available across the whole of the Wairau Aquifer to be able to set a similarly protective aquifer level cut off just yet. However, as renewals of consents have been occurring, meters have been required to be installed and during the term of the PMEP it is expected sufficient data will be able to be gathered with sufficient accuracy to enable a more appropriate level to be set.
98. The Council has adopted already as a public record of commitment, the following programme to address this gap in the aquifer level setting for the Wairau Aquifer which Policy B1 of the NPSFM requires to be set:

Progressive Implementation Programme for Implementing Policy B1 of the National Policy Statement: Freshwater Management 2014

Wairau Aquifer Minimum Water Level

Stage	Description	Due Date
Stage 1	Assessment of information held to identify gaps in knowledge.	31 December 2015
Stage 2	Technical investigations to collect, analyse and report data that will support the establishment of an environmental water level for the Wairau Aquifer. The work will include gathering water use information, further investigations of the mechanism in which the Wairau Aquifer is recharged from the Wairau River and the development of a fully calibrated model for running management options.	31 December 2020
Stage 3	Preparation and notification of plan changes to introduce a Wairau Aquifer minimum water level. If necessary, the plan changes will include methods and timeframes for applying minimum level restrictions to water users.	31 December 2024

99. The apparent inequity that can result in the interim, with cut-offs in the Springs aquifers sometimes occurring while cut-offs are not required in the Wairau Aquifer, is unfortunate. However, it is a situation that should prove to be short-lived, as it is expected that sufficient Wairau Aquifer data will be available by 2024 for the setting of an appropriate Wairau Aquifer cut-off level by plan change process.
100. Because of the possibility of this inequity arising in the interim, which undermines public confidence in the Springs aquifer level settings, the Panel urges Council to give priority in

resourcing the work needed to assist with the gathering of data and planning to support an early plan change process to set an appropriate Wairau Aquifer cut-off level.

101. Having considered all these issues the Panel accepts that there is not sufficiently accurate data available to attempt at the moment to set such a definitive cut off level in the Wairau Aquifer and that that will have to await the Plan change process which Council is obligated to carry out to comply with the NPSFM, and which it has already committed publically to a timeline to achieve.
102. The Panel has decided, though, that a new policy and method should be inserted as recommended by the report writers to link the setting of a minimum aquifer level for the Wairau FMU to a review of the notified levels established for the three Springs FMUs and to record a new Method for limit setting in the Wairau Aquifer by including a reference in the Plan to the Progressive Implementation Programme. The Panel made some limited amendments to the recommended wording for the explanatory statement for the new policy and method so that the decision was they should read as set out in the following decision:

Decision

103. That the cut-off levels in the Springs aquifers remain as notified in the PMEP and submissions seeking their deletion or amendment to enable greater use be rejected.
104. Insert a new policy and explanatory text as to process for setting of a new minimum aquifer level in the Wairau Aquifer as follows with the new policy following on Policy 5.2.4:

To implement a programme of investigation in order to establish minimum flows and/or levels for the Wairau Aquifer FMU in accordance with Policy 5.2.4 and Policy 5.2.11 by 2024, including a review of the minimum levels already established for Wairau Aquifer Urban Springs FMU, Wairau Aquifer Central Springs FMU and Wairau Aquifer North Springs FMU.

Policy B1 of the NPSFM requires the Council to set water quantity environmental flows and/or levels for all Freshwater Management Units. Environmental flows and/or levels are defined in the NPSFM as a type of limit which describes the amount of water in a freshwater management unit, and must include an allocation limit and a minimum flow or level.

At the time of notification of the MEP, the Council did not hold the resource use and environmental data required to set a minimum flow or level for the recharge sector of the Wairau Aquifer FMU. For this reason, the Council adopted a programme of progressive implementation that was publicly notified on 2 April 2015. That programme sets a date of 2024 as a target for establishing this minimum flow or level.

In recognition of the hydraulic connections within the wider Wairau Aquifer FMU, a review of the minimum levels in Schedule 3 of Appendix 6 of the MEP for the Wairau Aquifer Urban Springs FMU, Wairau Aquifer Central Springs FMU and Wairau Aquifer North Springs FMU will occur alongside the programme of investigation for establishing the minimum flow or level for the recharge sector of the Wairau Aquifer FMU.

This policy establishes a commitment to a progressive programme of investigation to collect and analyse environmental data required to establish the minimum flow or level. The minimum flow or level of the Wairau Aquifer FMU will be added to the MEP by plan change or upon review.

If, as a consequence of the review of the minimum levels for the Wairau Aquifer Urban Springs FMU, Wairau Aquifer Central Springs FMU or Wairau Aquifer North Springs FMU, changes to those levels are required, this will also be amended in the MEP by plan change or upon review.

This policy assists to give effect to Policy B1 of the NPSFM and the Council's Programme of Staged Implementation adopted under Policy E1 the NPSFM."

105. And a new Method as follows:

5.M.x – Setting of Environmental Flows and/or Levels

Where the Council has established a Progressive Implementation Programme under Policy E1 of the NPSFM for the establishment or review of minimum flows or levels, the Council will work with all relevant parties including, but not limited to, Marlborough's tangata whenua iwi, water user groups, industry groups, resource users and community organisations to determine any minimum flows or levels to be incorporated or amended by plan change to the MEP.

Southern Valleys Aquifers cut-off levels issue

106. The second issue raised by the submissions was most strongly expressed by the very experienced groundwater hydrologist Mr Peter Callander. The thrust of his evidence was that the setting of levels in the southern valleys to protect surface flows impacted illogically or unreasonably in some cases. He accepted the levels set were appropriate for those users wishing to take water from the aquifers in locations or strata where the abstraction could be shown to have a potential direct adverse drawdown effect on the surface flows.

107. However, the point he made forcefully was that various factors including distance from the surface flows, low transmissivity strata, artesian pressures or vertically or horizontally capped aquifer lenses amongst other issues, could result in abstraction at particular locations not causing any discernible drawdown effect on surface flows. His evidence on that lack of

Schedule C: Address for Service of Persons to be Served

Name / Organisation	Contact	Address for Service
Marlborough District Council	Kaye Mcllveney	Kaye.Mcllveney@marlborough.govt.nz