

Before the Environment Court  
At Auckland

ENV-2022-AKL-

I Te Koti Taiao O Aotearoa  
Tamaki Makaurau Rohe

Under the Resource Management Act 1991 (**RMA**)

In the matter of an appeal pursuant to clause 14(1) of Schedule 1 of the  
RMA

Between **Napier City Council**  
**Appellant**

And **Hawke's Bay Regional Council**  
**Respondent**

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**Notice of appeal to Environment Court against decision on  
proposed plan change**

Dated 26 October 2022

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To: The Registrar  
Environment Court  
**Auckland**

1. Napier City Council (**NCC**) appeals part of a decision of the Hawke's Bay Regional Council (**HBRC**) on Proposed Plan Change 9 to the Hawke's Bay Regional Plan (Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments) (**PPC9**).
2. NCC made a submission on PPC9, identified by HBRC as Submission Number 63.
3. NCC is not a trade competitor for the purposes of s 308D of the Act.
4. NCC received notice of the decision on 9 September 2022.
5. The decision was made by HBRC.
6. The parts of the decision NCC is appealing are:
  - (a) Provision within PPC9 for municipal water supply;
  - (b) The application of Stream Flow Maintenance and Habitat Enhancement (**Enhancement Scheme**) provisions to municipal water supplies.

All as detailed further below.

7. The reasons for the appeal are:
  - (a) As an overarching comment, in the absence of the relief sought by NCC, PPC9 fails to promote the sustainable management of resources, including failing to enable people and communities to provide for their social, economic and cultural wellbeing, and will not achieve the purpose of the RMA.

#### **Municipal water supplies**

- (b) In relation to provision for municipal water supplies, the decision rejected submissions by NCC that:
  - (i) References to the Heretaunga Plains Urban Development Strategy 2017 (being the current growth strategy for the Heretaunga Plains, which is known to significantly underestimate actual growth) be

amended to include reference to subsequent Future Development Strategies; and

- (ii) There be an appropriate consenting pathway for allocation of water for 'municipal, community and papakāinga water supply' - instead the decision provides a non-complying activity option limited to 'essential human health needs' (defined as limited to 200 l/person/day);
  - (iii) There be provision for transfers of other uses to municipal supplies where appropriate to extend the serviced area of municipal supply, that are not limited to only human health needs.
- (c) The decision to reject submissions on those points:
- (i) Fails to give effect to, and is inconsistent with, the National Policy Statement on Urban Development 2020, including, without limitation, the requirement on Tier 2 authorities to provide at least sufficient development capacity to meet the expected demand for housing and for business capacity over the short, medium, and long term.
  - (ii) Fails to meet the requirements of ss 32 and 32AA RMA, including, without limitation, in failing to assess the economic, social, and cultural effects anticipated from the failure to accommodate future growth, including the opportunities for economic growth and employment;
  - (iii) Is not the most appropriate way to achieve the purpose of the RMA, compared to the relief sought by NCC;
  - (iv) Fails to recognise the hierarchy of needs to be met under Te Mana o te Wai of the National Policy Statement on Freshwater Management 2020, the Regional Policy Statement and OBJ16 in PPC9 as they relate to municipal supplies and the economic social and wellbeing of communities.

### Applicability of Enhancement Scheme provisions to municipal supplies

- (d) In relation to provisions of PPC9 relating to stream flow enhancement, the decision rejected submissions by NCC seeking that municipal supplies be required to adopt a Water Conservation Strategy, rather than being subject to the requirement to contribute to an Enhancement Scheme or cease allocation when a flow maintenance trigger was reached. That decision:
- (i) Fails to account for the inability of municipal supply to cease abstraction, and therefore by default requires municipal water suppliers to contribute to an Enhancement Scheme, the form, costs and implications of are as yet unknown;
  - (ii) Fails to meet the requirements of ss 32 and 32AA RMA, including, without limitation, in failing to assess the economic, social, and cultural effects of the requirement to participate in an Enhancement Scheme;
  - (iii) Is not the most appropriate way to achieve the purpose of the RMA, compared to the requirement for municipal water suppliers to adopt a Water Conservation Strategy, which would appropriately address the issues described above while continuing to give effect to the objectives of PPC9, which in turn implement the requirements of the National Policy Statement on Freshwater Management (including Te Mana o te Wai) and the directives of the Regional Policy Statement;
8. By contrast, granting the relief sought would overcome the issues outlined above.
9. NCC seeks the following relief:
- (a) Amend OBJ TANK 13, POL TANK 36, POL TANK 42, POL TANK 45, POL TANK 47, POL TANK 48, Rule TANK 8, Rule TANK 9, Rule TANK 11, Rule 62A of PPC9 as set out in **Attachment A** or to like effect to address the grounds of appeal set out above;
  - (b) Such other additional or consequential relief as may be required to give effect to the primary relief sought.

(c) Costs.

10. In addition to Attachment A referenced above, the following documents are **attached** to this notice:

(a) **Attachment B** - A copy of relevant parts of the decision on PPC9;<sup>1</sup>

(b) **Attachment C** - A list of the names and addresses of persons to be served with a copy of this notice;<sup>2</sup>

(c) **Attachment D** - A copy of NCC's submission on PPC9.<sup>3</sup>

(Attachments B and D are not served on persons other than HBRC, but may be obtained, on request, from NCC, or are available on the HBRC website at the links below).

Dated this 26<sup>th</sup> October 2022.



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<sup>1</sup> Also available at <https://www.hbrc.govt.nz/assets/Uploads/Decision-Combined.pdf>

<sup>2</sup> A full list is also available under 'Helpful Links' at <https://www.hbrc.govt.nz/hawkes-bay/projects/the-tank-plan/tank-decision/>

<sup>3</sup> Also available at <https://www.hbrc.govt.nz/assets/Document-Library/TANK/Submissions/Part-2-Submitters-41-82.pdf> from page 140.

## **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 (in Form 33) 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 Act.

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

### *Advice*

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

## Attachment A

Relief Sought shown as underline / strike-through, highlighted text (or to like effect)

### Water quantity

**OBJ TANK 13** Ground and surface water in the TANK Catchment is allocated, subject to limits, targets and flow regimes which provide for the values of each water body, in the following priority order:

- a) The reasonable domestic needs of people, livestock drinking and fire-fighting supply
- b) Existing and future demand for domestic supply including marae and papakāinga, and municipal uses as described in HPUDS (2017) or successive versions and/or any requirements prescribed under a NPS on Urban Development
- c) Primary production on versatile land
- d) Other primary production, food processing, industrial and commercial end uses
- e) Other non-commercial end uses.

### Flow maintenance

**POL TANK 36** To mitigate the stream depletion effects of groundwater takes in the Heretaunga Plains Groundwater Quantity Area the Council will:

- a) consult with tangata whenua and other relevant parties to investigate the environmental, technical, cultural, social and economic feasibility of options for stream flow maintenance and habitat enhancement schemes including water storage and release options and groundwater pumping and discharge options that:
  - i. maintain stream flows in lowland rivers above trigger levels where groundwater abstraction is depleting stream flows
  - ii. improve oxygen levels and reduce water temperatures
- b) determine the preferred solutions taking into account whether:
  - i. wide-scale aquatic ecosystem benefits are provided by maintaining stream flow across multiple streams
  - ii. multiple benefits can be met including for flood control and climate change resilience
  - iii. the solutions are efficient and cost effective
  - iv. scheme design elements to improve ecological health of affected water bodies have been incorporated
  - v. opportunities can be provided to improve public access to affected waterways
- c) develop and implement a funding mechanism that enables the Council to recover the costs of developing, constructing and operating stream flow maintenance and habitat enhancement schemes from permit holders, including where appropriate:
  - i. management responses that enable permit holders to manage local solutions
  - ii. develop any further plan change within an agreed timeframe if necessary to implement a funding solution
- d) With the exception of takes for municipal purposes, where a water conservation strategy will be undertaken, where schemes are operational, either:
  - i. require abstraction to cease when applicable stream flow maintenance trigger is reached or
  - ii. require permit holders to contribute to and participate in the scheme
- e) ensure that stream flow maintenance and habitat enhancement schemes are constructed and operating within ten years of the operative date of the Plan while adopting a priority regime according to the following criteria:
  - i. solutions that provide wide-scale benefit for maintaining stream flow across multiple streams
  - ii. solutions that provide flow maintenance for streams that are high priority for

management action because of low oxygen levels

- f) review as per POL TANK 39 if no schemes are found to be feasible.

### Water Use and Allocation – Efficiency

**POL TANK 44** When considering applications for resource consent, the Council will ensure water is allocated and used efficiently by:

- a) ensuring that the use of water is efficient through:
  - i. allocation of water for irrigation end-uses based on soil, climate and plant needs
  - ii. requiring the adoption of good practice water use technology and processes that minimise the amount of water lost from the soil profile
  - iii. the use of water meters
- b) using the IRRICALC water demand model or a suitable equivalent approved by Council that utilises crop type, soil type and climatic conditions to determine efficient water allocations for irrigation uses
- c) allocating water for irrigation on the basis of an 80% application efficiency, and 95% reliability of supply
- d) requiring all non-irrigation water takes (except as provided by POL TANK 47 and POL TANK 48 for municipal and papakāinga supplies) to show how water use efficiency of at least 80% is being met and is consistent with any applicable industry good management practice
- e) requiring new water takes and irrigation systems to be designed and installed in accordance with industry codes of practice and standards
- f) requiring irrigation and other water use systems to be maintained and operated to ensure on-going efficient water use in accordance with applicable industry codes of practice

**POL TANK 45** When considering any application to change the water use specified by a water permit, or to transfer a point of take to another point of take, the Council will take into account:

- a) changes to the nature, location, scale and intensity of effects on:
  - i. total water use
  - ii. specified minimum flows and levels or other water users' access to water
  - iii. the values of outstanding water bodies listed in Schedule 25
  - iv. the values of outstanding water bodies as listed in the objectives and policies of this Plan
  - v. the patterns of water use over time, including changes from seasonal use to water use occurring throughout the year or changes from season to season
  - vi. water quality

and will consider declining applications:

- b) where the transfer is to another water quantity area unless:
  - i. new information provides more accurate specification of applicable boundaries
  - ii. where the lowland tributaries of the Karamū River are over-allocated, whether the transfer of water take from surface to groundwater provides a net beneficial effect on surface water flows
- c) to change/transfer water away from irrigation of the versatile land of the Heretaunga Plains for primary production especially food production, except where a change of use and/or



transfer is for:

- i. a flow enhancement or ecosystem improvement scheme, subject to clause (a) or
  - ii. the efficient delivery of municipal and community water supplies and to meet the communities' human health needs for water supply, including for marae and papakāinga, subject to clause (a)
- d) in over-allocated quantity areas, to transfer allocated but unused water
- e) for a change of use from frost protection to any other end use.

## Water Allocation - Priority

**POL TANK 47** In making decisions about resource consent applications for municipal and papakāinga water supply the Council will ensure the water needs of future community growth are met within water limits and:

- a) allocate water for population and urban development projections according to estimates provided by the HPUDS (2017) to 2045 or successive versions and/or any requirements prescribed under a NPS on Urban Development.
- b) calculate water demand according to existing and likely residential, non-residential, and non-residential (e.g. schools, hospitals, commercial and industrial) demand within the expected reticulation areas and:
  - i. require that water demand and supply management plans are developed and adopted and industry good management practice targets for water infrastructure management and water use efficiency including whether an Infrastructure Leakage Index of 4 or better can be achieved
  - ii. seek that the potential effects of annual water volumes are reflected in level of water supply service and reliability of supply objectives in asset management plans and bylaws for water supply
- c) work collaboratively with Napier City and Hastings District Councils to:
  - i. develop an integrated planning approach that gives effect to the National Policy Statements within the limits of finite resources
  - ii. develop a good understanding of the present and future regional water demand and opportunities for meeting this
  - iii. identify communities at risk from low water reliability or quality and investigate reticulation options.

**POL TANK 48** The Council will consider applications to take and use water from the Heretaunga Plains groundwater quantity area for existing and future demand for domestic supply including marae and papakāinga, and municipal uses essential human health needs of the community or unforeseen non-commercial needs that, by itself or in combination with other water takes in the same water quantity area, causes the total allocation limit as specified in Schedule 31 to be exceeded.  
When assessing and application the Council will take into account:

- a) whether the volume and rate of take is reasonable for the use
- b) the extent to which demand can be met through other methods or sources of water and that all other options have been considered and exhausted
- c) the extent to which the water use meets social, environmental or cultural needs essential for the community
- d) the nature and scale of adverse effects, including but not limited to bore interference, stream depletion or effects on minimum flows and potential derogation of existing water takes

- e) any adverse effects on the significant values of connected wetlands, outstanding waterbodies in Schedule 25, and the values of connected waterbodies as expressed in OBJs TANK 7-11.

## Over-Allocation

**POL TANK 50** The Council will phase out over-allocation by:

- a) preventing any new allocation of water (not including any reallocation in respect of permits issued before 2 May 2020, or high flow allocations)
- b) for applications in respect of existing consents due for expiry or when reviewing consents, to:
  - i. allocate water according to Actual and Reasonable use (except as provided for by POLs TANK 47 and 48 and 49) and take into account any water use required as part of a programmed or staged development specified within the existing water permit or associated resource consent, if:
    - 1. the consent holder can demonstrate that existing investment is dependent on water use over and above Actual and Reasonable use
    - 2. the specified activity or development has not lapsed during the resource consent duration
    - 3. the activity or development is integral to the on-going operation of the activity or development for which the permit was issued
    - 4. where applicable, water demand is calculated for rootstock only where there is evidence of a contract for the supply of that rootstock existing as at 2 May 2020
  - ii. impose conditions that require implementation of good management practice for efficiency of water use, including through altering the volume, rate or timing of the take, and providing information to verify efficiency of water use relative to good management practice standards
- c) provide for, within the duration of the consent, meeting water efficiency standards where hardship can be demonstrated
- d) reducing the amount of water permitted to be taken without consent, including those provided for by Section 14 (3)(b) of the RMA, except for authorised uses existing before 2 May 2020
- e) encouraging voluntary reductions, site to site transfers (subject to clause (f)) or promoting water augmentation/harvesting
- f) prevent site to site transfers of allocated but unused water that does not meet the definition of Actual and Reasonable use
- g) enabling and supporting permit holders to develop flexible approaches to management and use of allocatable water within a management zone including through catchment collectives, water user groups, consent or well sharing or global water permits
- h) enabling and supporting the rostering of water use or reducing the rate of takes in order to avoid water use restrictions at minimum or trigger flows.

Rule	Activity	Status	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
TANK 8 Groundwater Take – Heretaunga Plains	Replacement of an existing Resource Consent to take and use water from the Heretaunga Plains Groundwater Quantity Area	Restricted Discretionary	<p>a) The activity does not comply with the conditions of Rule TANK 7</p> <p>b) An application is either for the continuation of a water take and use previously authorised in a permit that was issued before 2 May 2020 or is a joint or global application that replaces these existing water permits previously held separately or individually.</p> <p><b>Actual and Reasonable Re-allocation</b></p> <p>c) The quantity taken and used, other than provided for under d), is the <b>Actual and Reasonable</b> amount</p> <p>d) The quantity taken and used for municipal, community and papakāinga water supply is:</p> <ul style="list-style-type: none"> <li>i) the quantity specified on the permit being replaced</li> <li>or</li> <li>ii) any lesser quantity applied for.</li> </ul>	<p>1. The extent to which the need for water has been demonstrated and is Actual and Reasonable provided that the quantities assessed or calculated may be amended after taking account of:</p> <ul style="list-style-type: none"> <li>a. the completeness of the water permit and water meter data record</li> <li>b. the climate record for the same period as held by the Council (note: these records will be kept by the Council and publicly available) and whether that resulted in water use restrictions or bans being imposed</li> <li>c. effects of water sharing arrangements</li> <li>d. crop rotation/development phases.</li> </ul>	<p>Applications may be considered without notification and without the need to obtain the written approval of affected persons in accordance with section 94(1)(b) of the RMA.</p> <p>Applications may be notified if special circumstances exist in terms of section 95B(10) of the RMA or upon review of a consent.</p>

		<p><b>Stream Flow Maintenance Scheme</b></p> <p>e) The take is subject to a stream depletion calculation</p> <p><b>General Conditions</b></p> <p>f) A water meter is installed</p> <p>g) Back flow of water or contaminant entry into the bore shall be prevented.</p> <p><b>Advisory Note:</b></p> <p>Any application to change water use as specified under (c) (d) or (e) may trigger a consent requirement under Rules TANK 4 or 5.</p>	<p>2. Previous history of exercising the previous consent</p> <p>3. The quantity, rate, and timing of the take, including rates of take and any other requirements in relation to any minimum or trigger flow or level given in Schedule 30 and rates of take to limit drawdown effects on neighbouring bores</p> <p>4. Where the take is in a Source Protection Zone or source protection extent, the actual or potential effects of the rate of take and volume abstracted on the quality of source water for the water supply and any measures to prevent or minimise any adverse effects on the quality of the source water used for a Registered Drinking Water Supply irrespective of any treatment including notification requirements to the Registered Drinking Water supplier</p> <p>5. For applications to take water for municipal, community and papakāinga water supply:</p> <p>a) provisions for demand reduction and asset management over time so that water use is at reasonable and justifiable levels including whether an Infrastructure Leakage Index of 4 or better will be achieved</p> <p>b) rate and volumes of take limited to the projected demand for the urban area provided in the HPUDS 2017 <u>or successive versions and/or any requirements prescribed under a NPS on Urban Development</u></p> <p>c) water demand based on residential and non-residential use including for schools, rest homes, industrial demand within the planned</p>	
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				<p>reticulation areas</p> <p>d) any Source Protection Zone or extent (as specified in Schedule 35) and:</p> <p>i. any proposed changes to provisional protection areas</p> <p>ii. the impacts of any changes to restrictions on land or water use activities in the protection area</p> <p>6. Measures to achieve efficient water use or water conservation and avoid adverse water quality effects including the method of irrigation application necessary to achieve efficient use of the water and avoid adverse water effects through ponding and runoff and percolation to groundwater</p> <p>7. The effects of any water take and use for frost protection on the flows in connected surface water bodies</p> <p>8. For applications other than irrigation, municipal, community or papakāinga water supply or frost protection, measures to ensure that the take and use of water meets an efficiency of use of at least 80%</p> <p>9. Management of bores including means of backflow prevention and ensuring well security.</p>	
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				<p>10. Information to be supplied and monitoring requirements including timing and nature of water metering data reporting and the installation of telemetered recording and reporting</p> <p>11. The duration of the consent (Section 123 of the RMA) as provided for in Schedule 33 timing of reviews and purposes of reviews (Section 128 of the RMA)</p> <p>12. Lapsing of the consent (Section 125(1) of the RMA)</p> <p>13. Stream flow depletion amount in litres per second calculated using the Stream Depletion Calculator</p> <p>14. Review of permit and new conditions to be imposed in respect of contribution to a stream flow maintenance and habitat enhancement scheme, when applicable.</p>	
<p><b>TANK 9</b> Surface and groundwater water takes (abstraction at low flows)</p>	<p>Replacement of an existing Resource Consent to take and use water.</p>	<p><b>Restricted Discretionary</b></p>	<p>a) The take is not from the Heretaunga Plains Groundwater Quantity Areas</p> <p>b) The taking and use of water from surface or groundwater water bodies does not comply with conditions of Rules TANK 6, or TANK 7</p> <p>c) Where the take was previously subject to a condition restricting the take at flows that are higher than the applicable flow specified in Schedule 30, the higher flow will continue to apply. For all other takes, the flows specified in Schedule 30 apply</p> <p>d) An application is either for the continuation of a water take and use previously authorised in a</p>	<p>1. The extent to which the need for water has been demonstrated and is Actual and Reasonable provided that the quantities assessed or calculated may be amended after taking account of:</p> <ul style="list-style-type: none"> <li>i) the completeness of the water permit and water meter data record</li> <li>ii) the climate record for the same period as held by the Council (note: these records will be kept by the Council and publicly available) and whether</li> </ul>	<p>Applications may be considered without notification and without the need to obtain the written approval of affected persons in accordance with section 94(1)(b) of the RMA. Applications may be notified if special circumstances exist in terms of section</p>

			<p>permit that was issued before 2 May 2020 or is a joint or global application that replaces these existing water permits previously held separately or individually</p> <p><b>Actual and Reasonable Re-allocation</b></p> <p>e) The quantity taken and used, other than provided for by f), is the <b>Actual and Reasonable</b> amount.</p> <p>f) The quantity taken and used for municipal, community and papakāinga water supply is the quantity specified on the permit being replaced or any lesser quantity applied for</p> <p><b>Surface Water Quantity Area</b></p> <p>g) Any take from groundwater in Zone 1 Groundwater authorised as at 2 May 2020 in any surface Water Quantity Area is subject to a stream depletion calculation</p> <p><b>General Conditions</b></p> <p>h) A water meter is installed</p> <p>i) Fish and eels are prevented from entering the reticulation system</p> <p>j) Back flow of water or contaminants into any bore shall be prevented.</p> <p><b>Advisory Note:</b></p> <p>Any application to change water use as specified under (c) (d) or (e) may trigger a consent requirement under Rules TANK 4 or 5.</p> <p><b>Means of Compliance for Condition (j)</b></p> <p>Installation of a screen or screens on the river intake that has a screen mesh size not greater than 3 millimetres and is constructed so that the intake velocity at the screen's outer surface is less than 0.3 metres per second and is maintained in good working order at all times.</p>	<p>that resulted in water use restrictions or bans being imposed</p> <p>iii) effects of water sharing arrangements</p> <p>iv) crop rotation/development phases</p> <p>2. Previous history of exercising the previous consent</p> <p>3. The quantity, rate and timing of the take, including rates of take and any other requirements in relation to any relevant minimum flow or level or allocation limit given in Schedule 30</p> <p>4. Where the take is in a Source Protection Zone or source protection extent, the actual or potential effects of the rate of take and volume abstracted on the quality of source water for the water supply and any measures to prevent or minimise any adverse effects on the quality of the source water used for a Registered Drinking Water Supply irrespective of any treatment including notification requirements to the Registered Drinking Water supplier</p> <p>5. For applications to take water for municipal, community and papakāinga water supply:</p> <p>i) provisions for demand reduction and asset management over time so that water use is at reasonable and justifiable levels including whether an Infrastructure Leakage Index of 4 or better will be achieved</p> <p>ii) Rate and volumes of take limited to the projected demand for the</p>	<p>95B(10) of the RMA or upon review of a consent</p>
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				<p>urban area provided in the HPUDS 2017 or successive versions and/or any requirements prescribed under a NPS on Urban Development</p> <p>iii) water demand based on residential and non-residential use including for schools, rest homes, and industrial demand, within the planned reticulation areas</p> <p>6. The location of the point(s) of take</p> <p>7. The effects of any water take and use for frost fighting on the natural flow regime of the river</p> <p>8. Information to be supplied and monitoring requirements including timing and nature of water meter data reporting and the installation of telemetered recording and reporting</p> <p>9. For applications other than irrigation, municipal, community or papakāinga water supply or frost protection, evidence that the take and use of water meets an efficiency of use of at least 80%</p> <p>10. Measures to achieve efficient water use or water conservation and avoid adverse water quality effects including the method of irrigation application necessary to achieve efficient use of the water and avoid adverse water effects through ponding and runoff and percolation to groundwater</p> <p>11. Management of bores and other water take infrastructure including means of backflow prevention</p> <p>12. Measures to prevent fish from entering the reticulation system</p>	
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				<ol style="list-style-type: none"><li>13. The duration of the consent (Section 123 of the RMA) as provided for in Schedule 33 timing of reviews and purposes of reviews (Section 128 of the RMA)</li><li>14. Lapsing of the consent (Section 125(1) of the RMA)</li><li>15. For takes from Zone 1 Groundwater in the Ngaruroro and Tūtaekurī Water Quantity Areas review of permit and new conditions to be imposed in respect of contribution to a Stream flow maintenance and habitat enhancement scheme, when applicable</li></ol>	
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<p>TANK 11 Groundwater take</p>	<p>The take and use of groundwater</p>	<p>Non-complying</p>	<p>a) The activity does not comply with the conditions of Rule TANK 10</p> <p>b) The take and use is for:</p> <p>i. <del>essential human health needs</del>  <u>existing and future demand for domestic supply including marae and papakāinga, and municipal uses;</u> or</p> <p>ii. an unforeseeable non-commercial need.</p>		
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Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
<u>Rule 62A</u>  <u>Transfer of permits to take and use water (fix up DM)</u>	<u>Permanent or temporary transfer of water in accordance with S136(2)(b)(i) of the RMA</u>	<u>Controlled</u>	<ul style="list-style-type: none"> <li>a. <u>The transfer is the whole or any part of the holder's interest in the permit for taking and use of surface or groundwater:</u> <ul style="list-style-type: none"> <li>i. <u>To another person on another site</u></li> <li>ii. <u>To another site</u></li> </ul> </li> <li>b. <u>The transfer is not between ground and surface water point of take</u></li> <li>c. <u>The permit is:</u> <ul style="list-style-type: none"> <li>i. <u>within the same catchment to any point downstream (excluding downstream tributaries) of the location to which the permit applies</u></li> </ul> <u>and</u> <ul style="list-style-type: none"> <li>ii. <u>the transfer is within the same Water Quantity Area</u></li> </ul> </li> <li>d. <u>The transfer of a groundwater take is to an existing bore for which pump tests are available and there is no increase in the nature and scale of drawdown effects on neighbouring bores or connected water bodies as a result of the transfer</u></li> <li>e. <u>The transfer does not result in an increase in nitrogen loss exceeding the amounts as-specified in Table 2 in Schedule 28</u></li> <li>f. <u>All parties to the transfer shall have metering and reporting at any applicable recording and reporting level</u></li> <li>g. <u>In fully or over-allocated water quantity areas, the transfer shall only be of that part of the permit for which there is Actual and Reasonable use</u></li> <li>h. <u>The purpose for the water use does not change except:</u> <ul style="list-style-type: none"> <li>i. <u>that water takes for irrigation use may be transferred for irrigation of different crops subject to conditions (e) and (f)</u></li> <li>ii. <u>for transfers that enable the operation of a flow enhancement scheme (ref POL TANK 36)</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>a. <u>Any applicable conditions on the permit being transferred and any water use permit at the location the water is to be transferred to</u></li> <li>b. <u>The quantity, rate and timing of the take, including rates of take and any other requirements in relation to any relevant minimum flow or level or allocation limit or drawdown effects, including in relation to any Source Protection Zone for a registered drinking water supply</u></li> <li>c. <u>Compliance with any applicable minimum flows and levels including flow maintenance in any applicable stream.</u></li> </ul>	

			<p>iii. <u>the transfer enables efficient delivery of water supply through a municipal or community water supply to meet the communities' human health needs.</u></p> <p><u>Advisory Notes</u></p> <ul style="list-style-type: none"> <li>• <u>For the purpose of (i), the transfer of water from any municipal use to any other municipal use is not considered a change in use.</u></li> <li>• <u>Section 136(5) of the RMA provides that when notification of the transfer has occurred, the permit, or that part of the permit transferred shall be deemed to be cancelled, and the permit or part transferred shall be deemed to be a new permit subject to the same conditions as the original permit.</u></li> </ul> <p><u>Note that Rules TANK 4, 5 or 19 may be triggered as a result of a transfer activity.</u></p>		
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# Attachment C

No	Name	Organisation	Address	Email
3	Gavin Yort	Limestone Properties Limited	PO Box 14065, Mayfair, Hastings, New Zealand, 4159	toni@squawkingmagpie.co.nz
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