

Hearing Stream Three: Water allocation

1. My name is Paula Jane Hammond. I am a Policy Advisor for the Wellington Regional Council. I have qualifications and experience set out in my Section 42A officer's report: Water allocation.
2. The provisions in my Section 42A officer's report cover water allocation, including minimum flow restrictions, and the provisions relating to bores and dewatering.
3. The water allocation provisions are in the main body of the proposed Plan as well as catchment specific policies and rules contained in the Whaitua chapters. I will briefly describe how the whaitua process fits with the proposed Plan, particularly the water allocation provisions.
4. I would also like to summarise for water allocation; the higher order planning instruments, water allocation issues, policy framework in the proposed Plan for water allocation, issues addressed in my s42A report, recommendations in my s42A report, key issues identified in submitter's evidence, and recommendations I will reconsider.

Higher order planning instruments

5. The following are the higher order planning documents that relate to water allocation.
6. **The Resource Management Act 1991 (RMA)** provides in s5(2)(b) that the life supporting capacity of water is safeguarded, and in s(7)(b) in exercising functions and powers under the RMA all persons shall have particular regard to the efficient use and development of natural and physical resources.

Water allocation

7. Section 14 of the RMA generally restricts the taking, use, damming or diverting of water. However, section 14(3)(b) permits the taking or use of fresh water for an individual's reasonable domestic needs and the reasonable needs of a person's animals for drinking water where the taking or use does not, or is not likely to, have an adverse effect on the environment. Section 14(3)(e) permits the taking or use of water for

emergency or training purposes in accordance with section 48 of the Fire and Emergency New Zealand Act 2017.

8. All other taking or use of fresh water is restricted by section 14(3)(a) of the RMA.
9. There are a number of provisions in section 30 of the RMA that give regional councils the functions to control:
 - the taking, use, damming and diversion of water, including the setting of minimum (or maximum) flows of water (section 30(e)(i)), or
 - control the range, or rate of change, of levels or flows of water (section 30(e)(ii))
10. Section 30(1)(fa) of the RMA provides for regional councils, if appropriate, to establish rules in a regional plan to allocate the take and use of water, or the taking or use of heat or energy from water.

Bores

11. Section 9 of the RMA applies to the use of land and is generally ‘enabling’ in that it generally enables the use of land unless that use is restricted by a national environmental standard (NES), or a rule in a regional or district plan.
12. Section 30 of the RMA gives regional councils the following functions to control the use of land for the purposes of:
 - maintaining and enhancing water quality (section 30(1)(c)(ii)), and
 - maintaining water quantity in water bodies and coastal water (section 30(c)(iii)).

Discharges

13. Several of the activities within the water allocation topic have associated discharges e.g. dewatering and pump tests.
14. Section 15 of the RMA is generally ‘restrictive’ for discharges to water or to land where they may enter water, stating no person may discharge any contaminant to water or to land where it may enter water unless this discharge is expressly permitted by a rule in a plan, an NES or a resource consent.

15. Section 30(1)(f) of the RMA gives regional councils the function of controlling the discharge of contaminants into or onto land or water and discharges of water to water.

National Policy Statement for Freshwater Management (2014)

16. The National Policy Statement for Freshwater Management 2014 (NPS-FM) sets out the objectives and policies for freshwater management under the RMA. The NPS-FM requires regional councils to establish objectives and limits for fresh water in their regional plans. In the Wellington Region, the NPS-FM is primarily being implemented through the whitua process. The proposed Plan contains allocation 'limits' and minimum flow limits for surface water and groundwater.

National Environmental Standards for sources of human drinking water (2007)

17. The Resource Management (National Environmental Standards for Sources of Drinking Water) Regulations 2007 (NES-Drinking Water) have specific requirements (Regulations 9 and 10) that apply to permitted activity rules that have the potential to affect drinking water sources for registered community drinking water supplies (those supplying populations of 501 or more people for 60 or more days each year).
18. The NES-Drinking Water requires regional councils to consider the effects of activities on drinking water sources in their decision making. Specifically, it requires that permitted activities in regional plans will not result in community drinking water supplies being unsafe for human consumption following existing treatment.

National Water Conservation (Lake Wairarapa) Order 1989

19. A matter of national significance that must be considered in the proposed Plan is the National Water Conservation (Lake Wairarapa) Order 1989 (Lake Wairarapa WCO). Section 67(4)(a) of the RMA requires that a regional plan is not inconsistent with a water conservation order.
20. The Lake Wairarapa WCO declares the wildlife habitat created in part by the natural fluctuations of the water levels an outstanding feature of Lake Wairarapa. Lake Wairarapa is included in Schedule A of the proposed Plan. The Lake Wairarapa WCO also states that no rights to divert water within Lake Wairarapa shall be granted and no

water rights shall be granted if the effect would be to diminish significantly the outstanding wildlife habitat feature of any part of the lake.

Resource Management (Measuring and Reporting of Water Take) Regulations 2010

21. The Resource Management (Measuring and Reporting of Water Take) Regulations 2010 (Measuring and Reporting Regulations) establish the minimum requirements a consent holder must meet for measuring and reporting on their water take. The Measuring and Reporting Regulations do not apply to permitted activities and apply to consent takes with a rate of take greater than 5L/s.

The Regional Policy Statement for the Wellington Region 2013 (RPS)

22. The RPS identifies that; the ecosystem function of some rivers, lakes and wetlands has been impaired by activities such as taking water from rivers and groundwater connected to rivers, wetlands and springs, and there is an increasing demand on limited water resources.

23. RPS has three objectives relating to water allocation. These include; quantity and quality of fresh water (Objective 12), healthy ecosystems in water bodies (Objective 13), and freshwater is allocated and used efficiently (Objective 14).

24. RPS policies relating to these objectives include:

- **Policy 12** requires regional plans to manage water quality and the aquatic habitat of surface water bodies to safeguard aquatic ecosystems,
- **Policy 13** requires regional plan provisions to establish allocation limits for that can be taken from rivers and lakes and groundwater,
- **Policy 18** requires regional plan provisions to promote the retention of natural flow regimes (such as flushing flows) and promote the installation of off-line water storage,
- **Policy 20** requires regional plan provisions to promote the efficient allocation and use of water, and promote water harvesting.

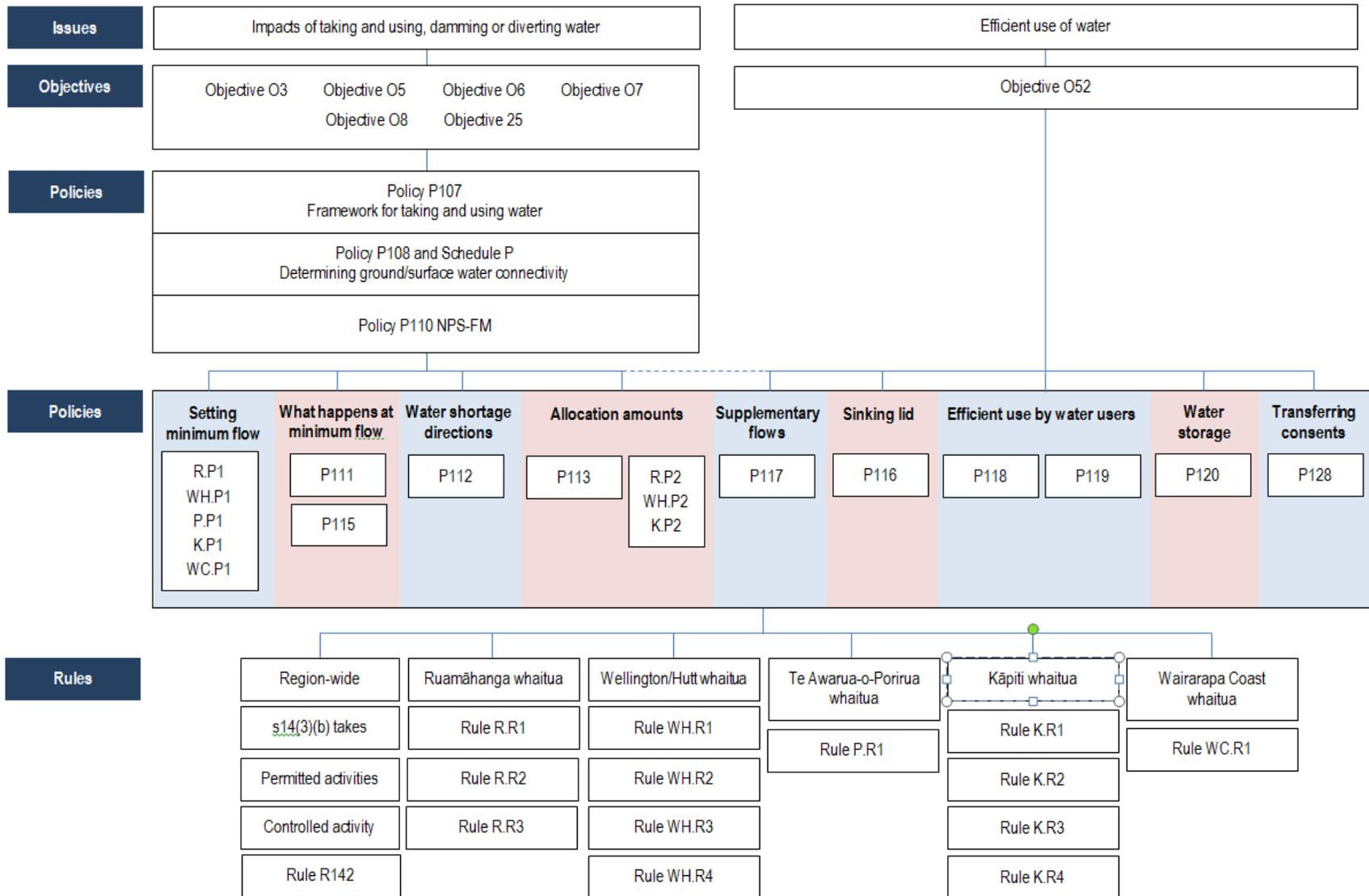
Water allocation issues

25. There were two issues identified for water allocation in the Section 32 report: Water quantity; the impacts of taking using, damming or diverting water and the efficient use of water.

26. The issues recognise the taking and use of water can have adverse effects of in-stream values and the use of water is increasing demand on limited water resources.

Proposed Plan policy framework for water allocation

27. The integrated nature of the proposed Plan provides a suite of connected objectives and policies for water allocation. For example, Objective O5 is highly relevant to the water allocation topic as the objective describes the minimum management goals for the region's freshwater bodies. Objective O5 also applies to water quality and discharges. Objective O52 applies to allocation and seeks to ensure the efficiency of allocation and use of water is improved and maximised through time.
28. The proposed Plan, through the objectives, policies, rules and other methods seeks to minimise the adverse effects on water bodies from the taking and use of water, and ensure the use of water is efficient.
29. Figure 1 below, from my s42A, report summaries the relationship between provisions for the policy framework to manage water allocation.



30. There are 25 policies in the main body of the proposed Plan that are addressed in the water allocation topic and an additional eight allocation policies in the whitua chapters of the proposed Plan. The policies relating to bores, dewatering and managing adverse effects on groundwater are not included in the diagram above, but are discussed below.
31. Policy P107 sets the overall structure for water allocation in the proposed Plan. The policy recognises groundwater and surface water connectivity, allocation limits and minimum flow provisions provided for in the proposed Plan.

Integrating the take and use of groundwater and surface water

32. Policy P108 provides for groundwater that has direct connection to surface water to be managed within the same allocation as for surface water and groundwater not directly connected to surface water to be managed within the groundwater allocations. Policy P108 also states that the connectivity of groundwater and surface water shall be managed in accordance with Schedule P.

NPS-FM

33. Policy P110 is required by the NPS-FM to be included in a regional plan while the implementation of the NPS-FM being undertaken. Policy P110 applies to any new activity or any change in character, intensity or scale of any established activity that involves the taking, using, damming or diverting of freshwater. The policy requires the consent authority to have regard to the following matters when considering an application:
- The extent to which the change would adversely affect the safeguarding the life-supporting capacity of freshwater and of any associated ecosystem, and
 - The extent to which it is feasible and dependable that any adverse effect on the life-supporting capacity of fresh water and of any associated ecosystem resulting from the change would be avoided.

Minimum flow policies

34. Policies R.P1, WH.P1, P.P1, K.P1 and WC.P1 set the minimum flows and water levels for rivers and lakes in the whitua chapters. The minimum flows are either listed in

tables in the whitua chapters for the specified rivers and lakes or set at a default minimum flow of 90% of the mean annual low flow.

35. Policy P111 states that take and use of water shall not occur below minimum flow or water levels but with the following exceptions:
- Section 14(3)(b) and section 14(3)(e) takes and use; or
 - The take and uses permitted by the Plan; or
 - As authorised by resource consent in accordance with Policy P115.
36. Policy P115 details the circumstances where resource consents may authorise the take and use of water below minimum flows or water levels.

Water shortage

37. Policy P112 provides direction on the priorities of water in times of drought and serious water shortage.

Allocation

38. Policy P113 sets the default allocation amounts (limits) for rivers and their tributaries that are not list in Rules R.R1, WH.R1 and K.R1 in the whitua chapters of the plan.
39. Policies R.P2, WH.P2 and K.P2 state the maximum amount of water available for allocation in the whitua areas shall not exceed whichever is the greater of:
- The total amount allocated by resource consents at the time the resource consent application is lodged, or
 - The allocation amounts provided for in Tables 7.3 – 7.5, Tables 8.2 and 8.3 and Tables 10.2 and 10.3.
40. Policy P114 establishes that when the total take and use of water exceeds the core allocation, water shall be allocated in the following priority; the health needs of people, stock drinking water, and other values.

41. Policy P117 provides for water to be taken when a river is above median flow, provided flushing flows and portion of the flow above median flow remains in the river to meet Objective O25.
42. Policy P122 requires the take and use of water to provide for variable river flows, including flushing flows, to maintain aquatic ecosystem health and sediment transport.

Efficient allocation

43. Policy P116 requires water that becomes available from resource consents that are surrendered, lapsed, cancelled or not replaced, is not reallocated if the core allocation is exceeded.
44. Policy P118 states the amount of water taken or diverted through resource consents shall be reasonable and used efficiently and sets a timeframe of four years after the plan becomes operative to meet the efficiency criteria set out in Schedule Q.
45. Policy P119 provides for unused water to be reallocated to the same user, provided the consent holder can demonstrate how the unused water will be used within four years.

Transfer of permit

46. Policy P128 provides for the transfer of the whole or part of the total amount allocated by a resource consent to take and use water provided certain conditions are met.

Water storage

47. Policy 120 considers that taking water for storage outside a river bed, at flows above median flow, is appropriate, provided Policy P117 is satisfied.

Aquifers, bores and dewatering

48. Policies P121, P123, P125, P126, P127, P130 and P131 manage adverse effects with respect to groundwater and aquifers. Policy P121 safeguards aquifers from salt water intrusion. Policy P123 states the adverse effects of taking groundwater on existing bores shall be minimised. Policy P125 states the taking of groundwater shall not result in

cross-contamination between aquifers or water bearing layers. P127 states there shall be no backflow to surface or groundwater from any equipment used.

49. Policy P130 provides direction on where bores are sited, how they are constructed and that they are used in a manner that prevents contaminants from entering the bore and prevents the waste of water. Policy P131 states that bores no longer required shall be decommissioned in general accordance with the drilling standards.
50. Policy P126 states that localised land subsidence or adverse effects on existing groundwater users, or the flows, levels or quality of surface water shall be minimised.

Rules

51. Rules R136, R137, R138, R139 and R140 are permitted activity rules that provide for water to be taken for certain activities subject to certain conditions. In addition to these permitted rules, section 14(3) of the RMA allows a person or individual to take and use water for reasonable domestic needs and the for animal drinking . Water for firefighting purposes (including training) is also provided for under section 14(3)(e) of the RMA.
52. Rule R141 is a controlled activity that provides for smaller properties that cannot meet the conditions of Rule R136.
53. Rule R142 is a discretionary activity that provides for the take and use of water that is not provided for in the other rules of the proposed Plan.
54. Rules R143 to R145 provide a cascade of rules from a controlled activity to restricted discretionary and discretionary for the transfer of water permits.
55. Rules R146 to R148 provide a cascade of rules from permitted to controlled and discretionary for the construction of bores.
56. Rules in the Ruamāhanga (Rules R.R1 to R.R3), Wellington Harbour and Hutt Valley (Rules WH.R1 to WH.R4) and Kāpiti Coast (K.R1 to K.R4) whitua chapters of the plan provide for the take and use of water from within the whitua areas. The first rule in each of these whitua is a restricted discretionary activity for the take and use of

water. Where the minimum flow or allocation conditions of the restricted discretionary activity cannot be met the default is to a prohibited activity. The minimum flows and allocation amounts are shown in tables within the respective whitua chapters. There are also maps in each of these whitua chapters that spatially define the groundwater categories used to determine the connectivity to surface water.

57. The second rule is a discretionary activity that provides for the take and use of water in areas not covered by the restricted discretionary rule, or where the condition of the restricted discretionary rule relating to the take and use of water above median flows cannot be met. The third rule in the Wellington Harbour and Hutt Valley and Kāpiti Coast whitua chapters is a non-complying activity where the take and use of water is from a Schedule A1 (outstanding rivers) or Schedule A2 (outstanding lakes).
58. In the Porirua and Wairarapa Coast whitua chapters there is only one discretionary rule covering the take and use from any river, lake or groundwater within the whitua area.

Key issues addressed in the s42A report

59. Submissions on the water allocation provisions are organised into five key issues:
60. **Issue 1: Giving effect to the NPS-FM** There were a number of submissions stating that the proposed Plan did not give effect to the NPS-FM.
61. **Issue 2: Framework for allocating water** Submissions were grouped into the following sub-topics:
 - **Overall allocation framework of the proposed Plan** Submitters considered that the proposed Plan did not provide an adequate allocation framework.
 - **Integrating the take and use of groundwater and surface water – conjunctive management framework** Submitters expressed concern about the models used to inform the conjunctive management framework and Schedule P.
 - **Minimum flows** Submitters requested changes to the definitions of minimum flow, minimum flow and water level, mean annual low flow (MALF), stepdown allocation. The implications of minimum flows on reliability of supply, economic impact was submitted on as was the ability of the low flows to safeguard the life-supporting capacity of the river. Exceptions for continued used at minimum flow,

including the health needs of people and water races received submissions both for and against the provisions.

- **Allocation** There was considerable confusion expressed in submissions due to a lack of clarity with the definitions and policies relating to allocation. Additionally, some submitters requested the allocation amounts remain the same as in the Regional Freshwater Plan for the Wellington Region, while others suggest allocation amounts should be based on the best evidence available at the time.
- **Supplementary allocation** Submitters suggested the proposed Plan did not provide for the take and use of water from storage facilities and there were a number of submissions expressing concern that the supplementary allocation provisions and policies did not achieve the objectives of the proposed Plan.
- **Permitted and controlled activities** A number of submissions sought clarification on how the water allocation provisions interfaced with the take and use of water allowed by the RMA and the whitua provisions. Some submitters questioned the volume of water provided for in the permitted and controlled rules and asked why these activities were not subject to minimum flows.

62. **Issue 3 Water use**

- **Priorities for water use** Submissions sought changes to the definition of the health needs of people. Submitters sought various types of uses to be included or excluded from Policies P111, P112, P114 and P115.
- **Efficient use** Submissions sought changes to the definition of efficient allocation. Submissions on Objective O52 sought to have reliability included in the objective and whether water storage should be included in the objective. A number of submitters were concerned with the provisions of Schedule Q and the timeframe for it to be implemented.
- **Transfer of permit** Submitters sought to have the transfer of water permits as a permitted activity and considered Policy P128 created bureaucratic hurdles against the intent to facilitate water sharing. In ‘over-allocated’ catchments a submitter suggested only 50% of the water should be allowed to be transferred.
- **Lapse provisions** Submitters questioned why Policy P109 specified a lapsed date of three years rather than the five specified by section 125 of the RMA.

63. **Key Issue 4 Aquifers, bores and dewatering**

- **Aquifer integrity** Submitters sought changes to the definition of aquifer, bore and geotechnical bore. Submitters expressed concern about the lack of provisions protecting the Hutt aquifer. Other submissions sought to provide for monitoring bores as a permitted activity.

- **Well pointing and dewatering** Submitters were concerned about the use of the word minimise in Policy P126. Submissions also sought for the dewatering provisions to provide for well pointing and for the permitted activity (Rule R140) to allow dewatering for greater than the one month period specified in the rule.

64. **Key Issue 5 Methods** Submissions sought to make minor amendments to the wording of Methods M18 and M19.

Recommendations in my s42A report

65. In my s42A report I have made a number of recommendations, many of which are consequential changes or minor amendments. I have only listed the significant recommendations below.

- New definition for allocation amount
- Amendment to the definition for aquifer
- Amendment to the definition for core allocation
- New definitions for direct connection (Category A) groundwater, high connection (Category B) groundwater, moderate connection (Category B) groundwater and limited connection (Category C) groundwater.
- Delete definition of Geotechnical investigation bore
- Delete definitions of directly connected and not directly connected groundwater
- Amendment to the definition for dewatering
- Amendment to the definition for efficient allocation
- Amendment to the definition for Mean annual low flow
- New definition for surface water allocation
- Amendment to Objective O52 deleting sub clauses from the objective
- Amendment to Policy P107: Framework for taking and using water, by including the groundwater connectivity table and including a clause specifying how the proposed Plan provides for section 14(3) of the RMA takes and permitted activities
- Amendment to Schedule P (Table 4.1): Classifying and managing groundwater and surface water connectivity

- Amendment to Policy P114: Priorities when demand exceeds supply
- Amendment to Policy P115: Authorising takes below minimum flows and lake levels
- Amendment to Policy P117: Supplementary allocation amounts at flows above the median flow
- Amendment to Policy P126: Site dewatering
- Amendment to the description at the beginning of Chapter 5.6.2 Take and use of water
- Amendment to fish screen provision in Rules R136, R137 and R141
- Amendment to Rule R138: Water races
- Amendment to Rule R140: Dewatering
- New rule recommended R140A: Take and use of water from water storage facility
- Amendment to Rule R146: Geotechnical investigation bores
- New rule recommended Rule R146A: Construction and excavation activities below 5m ground level in the Hutt Valley aquifer system
- New rule recommended Rule R148A: Decommissioning or sealing of bores (mentioned in my section 42A report, but mistakenly omitted in track changes)
- Amendment to include reference to permitted and controlled activities in Rules R.R1, R.R2, WH.R1, WH.R2, K.R1, K.R2, P.R1 and WC.R1.
- Amendment to supplementary allocation provisions in Rules R.R1, WH.R1 and K.R1
- New schedule recommend Information required for the reclassification of a groundwater take category
- Amendments to Tables 7.3, 7.4, 7.5, 8.2, 8.3, 10.2 and 10.3.

Outstanding issues identified in submitter's evidence

66. After preparing my s42A report, I have read the hearing evidence for Hearing 3 on water allocation. Some of the key matters that are still in contention are:

- The period of time allowed by the permitted rule for dewatering; provision for dewatering associated with regionally significant infrastructure; and the definition of potentially contaminated land within the dewatering rule
- Rules relating to bores to ensure the protection of drinking water supply areas and the Hutt Valley aquifer zone
- Definition of MALF and how it has been used in the proposed Plan
- The inclusion of reliability in Objective O52; the use of the word maximised in Objective O52; and deletion of Objective O52 to be replaced by a framework for the take and use of freshwater
- The framework for taking and using water including:
 - setting of values, allocation limits and minimum flows
 - how the allocation limits apply to existing consents
 - which takes and uses are subject to minimum flows
- Categorisation of groundwater and its connectivity to surface water, particularly in the Lower Ruamāhanga Zone and the evidence required to show a particular take does not have the expected stream depletion effects.
- The application and appropriateness of the efficiency criteria including the matters described in Schedule Q
- The implications of the prohibited activity rules for the take and use of water in the Ruamāhanga Whaitua, Wellington Harbour and Hutt Valley Whaitua and the Kāpiti Coast Whaitua.

Recommendations I will reconsider

67. Due to the short time frame and extent of evidence exchanged, I have not been able to fully determine any recommendations I will reconsider. I will consider the evidence presented to the Panel and address any further matters or reconsideration of my recommendations through written right of reply.
68. I do note, however, that my section 42A report recommended including a new permitted rule for the decommissioning of bores (paragraph 705), but the proposed wording was inadvertently not included in the report. The proposed wording is attached as Appendix A.

69. The recommended changes to Rule R146 in my section 42A report referred to Map XX (paragraphs 672 and 677). I have attached a copy of the map as Appendix B.
70. Proposed new Rule R146A also referred to Figure XX (paragraph 660). While this map has the same reference XX in my report as for Rule R146, the maps are different. I have attached a copy of the map for Rule R146A as Appendix C.

Appendix A

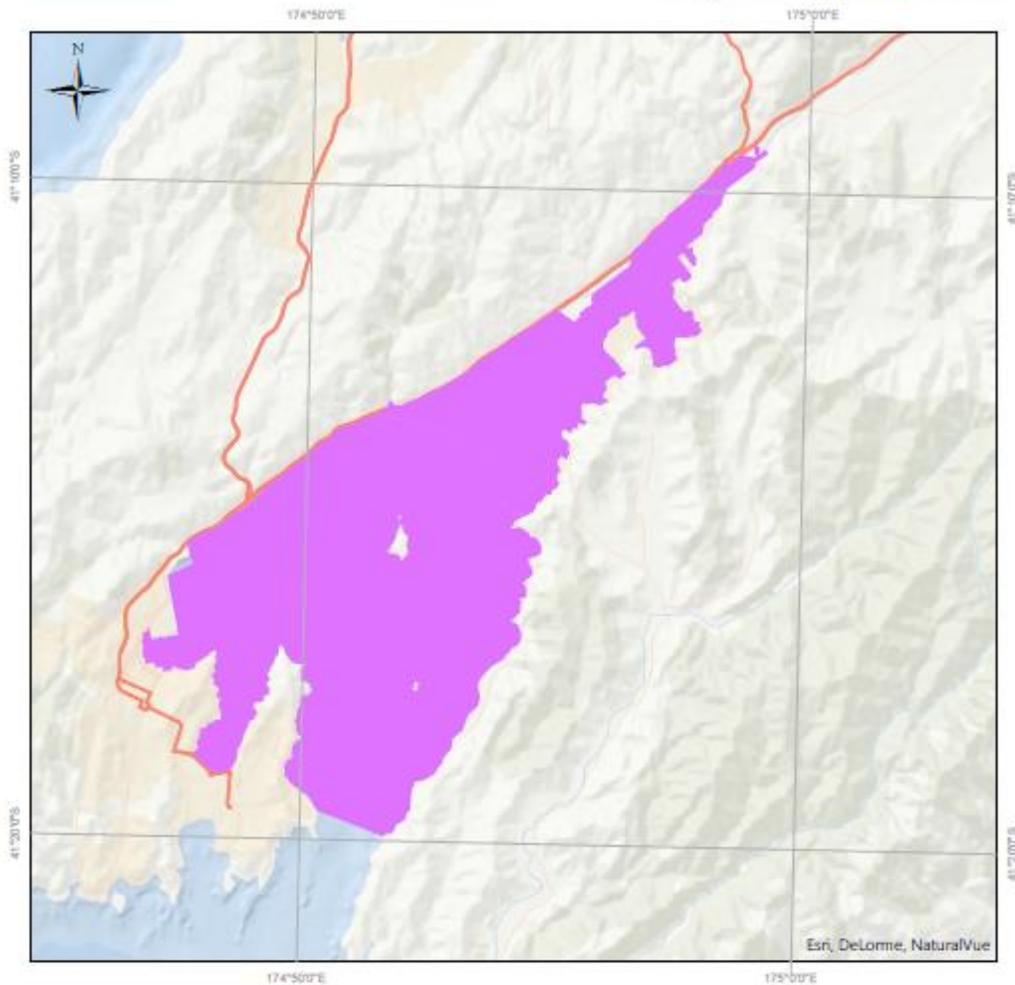
Rule R148A: Decommissioning or sealing of bores – permitted activity

The decommissioning or sealing of a bore is a permitted activity, provided the following conditions are met:

- (a) The bore is decommissioned in accordance with the NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock, and
- (b) Bores shall be backfilled and sealed at the surface to prevent contamination of groundwater, and
- (c) Bores intersecting groundwater shall be sealed to prevent the vertical movement of groundwater and to permanently confine the groundwater to the specific zone (or zones) in which it originally occurred, and
- (d) Backfill materials, where used between permanent seals, shall consist of clean sand, coarse stone, clay or drill cuttings. The material shall be non-toxic, and
- (e) Decommissioning shall be undertaken by a suitably qualified person, and
- (f) The Wellington Regional Council shall be advised of any bores that are decommissioned and if requested, be supplied with details of how the bore was decommissioned.

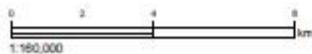
Hutt Aquifer Protection Zone

Map XX - for Rule 146



This version of the map is not complete. The version of this map available online through the online web map viewer shows the complete, detailed information on a GIS overlay that is not shown on this hard copy. The online version is available on the Council's website at <http://mapping.gw.govt.nz/gwro/> (select theme **Exposed Natural Resources Plan 2015**) and can be accessed from the Council offices or public library.

 Hutt Aquifer Protection Zone Extent



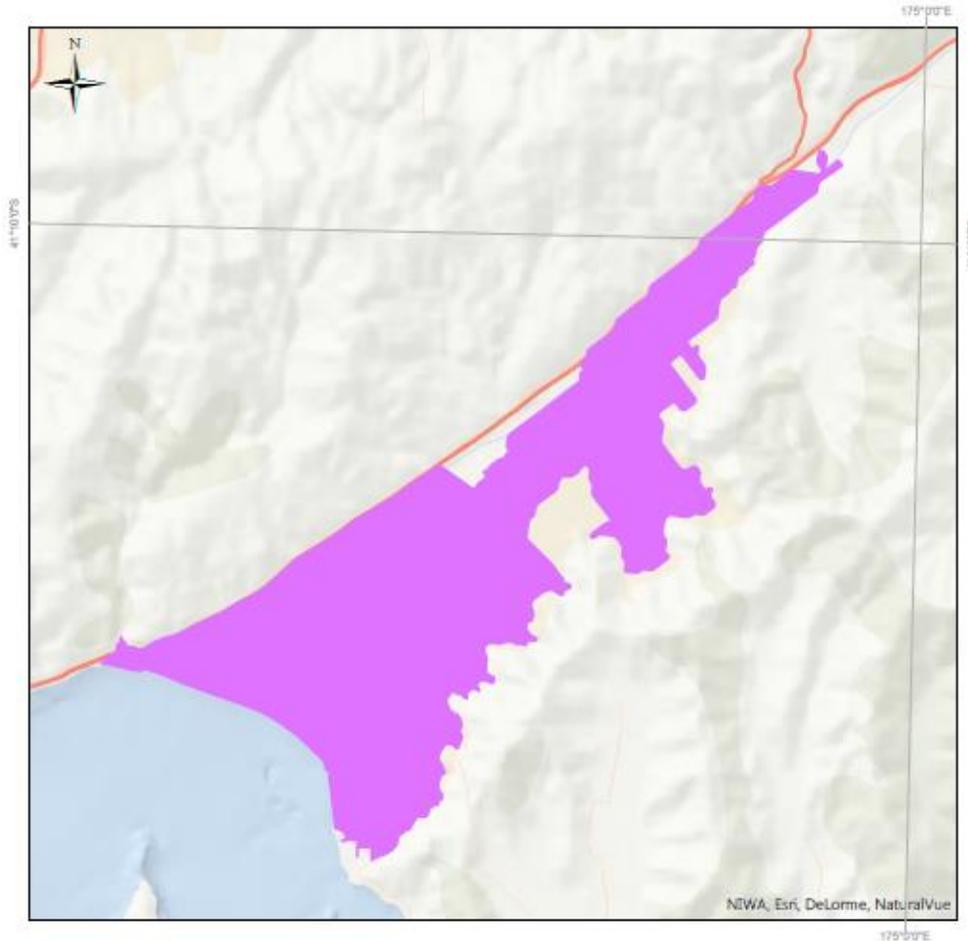
Basemap: World Oceans Base
Projection: NZTM 2000



Copyright
Basemap: Esri, DeLorme, GEBCO, NOAA NGDC,
and other contributors
Topographic and Cadastral: LINZ & CoreLogic Ltd

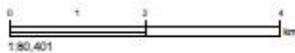
Hutt Aquifer Protection Zone in Hutt Valley

Map XX - for Rule 146A



This version of the map is not complete. The version of this map available online through the online web map viewer shows the complete, detailed information on a GIS overlay that is not shown on this hard copy. The online version is available on the Council's website at <http://mapping.gw.govt.nz/gwro/> (select theme **Proposed Natural Resources Plan 2015**) and can be accessed from the Council offices or public library.

 Hutt Aquifer Protection Zone Extent



Basemap: World Oceans Base
Projection: NZTM 2000



Copyright
Basemap: Esri, DeLorme, GEBCO, NOAA, INGOC,
and other contributors
Topographic and Cadastral: LINZ & CoreLogic Ltd