



## Qualifications and Experience

- 1 My full name is Pauline Mary Whitney
- 2 For my qualifications and experience and other introductory comments, please refer to paragraphs 1 to 4 of my statement of evidence for Hearing Stream One, dated 4 May 2017.
- 3 In my evidence to Hearing Stream One, I outlined a number of overarching comments in regard to the concerns of Masterton District Council and South Wairarapa District Council ("**MDC and SWDC**" or "**Councils**") with the Proposed Natural Resources Plan ("**PNRP**") in relation to its complexity, strong regulatory focus, its environmental expectations and the difficulties with the Whaitua process. To avoid repetition, I will not reiterate those points.

## Scope of Evidence

- 4 My evidence will address the following:
  - 4.1 A brief outline of the amendments to the PNRP specific to "Hearing Stream Three: Water Allocation, & Natural Form and Function" being sought by MDC and SWDC
  - 4.2 Responses to the officer recommendations, including amendments sought by the Councils that remain outstanding.

## Hearing Stream Three - Amendments sought by MDC and SWDC

- 5 MDC and SWDC each lodged a total of nine original and four further submission points relevant to Hearing Stream Three.
- 6 The nine original submission points relate to:
  - Schedule Q Reasonable and efficient use criteria
  - Objective O32 Outstanding natural features and landscapes
  - Objective O36 Significant geological features
  - Objective O37 Significant surf breaks
  - Objective O38 Special amenity landscapes
  - Policy P115 Authorising takes below minimum flows and lake levels
  - Policy P118 Reasonable and efficient use
  - Rule R136 Take and use of water
  - Rule R140 Dewatering
- 7 The four further submission points relate to:

- Objective O19 Natural processes
- Policy P24 Outstanding natural character
- Rule R136 Take and use of water
- Rule R138 Water races

8 I note that none of the objectives addressed at Hearing Stream Three were specifically addressed in the Review of the Objectives of the Proposed Natural Resources Plan for the Wellington Region, undertaken by Gerard Willis dated 14 July 2017.

### Responses to the Section 42A Report on Overarching Hearing

- 9 The following section of my evidence responds to the Section 42A Report evaluation and recommendations on MDC and SWDC's original and further submission points. The officer recommendations are either **accepted** or **supported**, or **opposed**.
- 10 Of the 13 submission points, the officer recommendations on those points that are accepted or supported are attached as Appendix A. Note: the officer recommendation on Rule R138 is addressed in the main body of my evidence given the significance of the recommendation to the Councils.
- 11 The remaining officer recommendations that are opposed by MDC and SWDC relate to:
- Schedule Q Reasonable and efficient use criteria
  - Objective O32 Outstanding natural features and landscapes
  - Objective O36 Significant geological features
  - Objective O37 Significant surf breaks
  - Policy P118 Reasonable and efficient use
  - Rule R136 Take and use of water
  - Objective O19 Natural processes
  - Policy P24 Outstanding natural character

### Officer Recommendations Opposed

#### Original Submission Points

#### Schedule Q Reasonable and efficient use criteria

*GWRC s.42A Topic: Water Allocation, paragraphs 588-601 (submission [S367/008](#) and [S366/008](#)). The officer recommends no change to Schedule Q.*

- 12 In their submissions, MDC and SWDC sought the deletion of Group or Community Water Supplies and Water Races from Schedule Q.

- 13 Within the PNRP, the application of Schedule Q is required under: Policy P118 Reasonable and Efficient Use<sup>1</sup>, Policy P119 Unused Water, Policy P128: Transfer of resource consents, and as a matter of discretion under Rule R144: Transferring water permits – restricted discretionary activity, R.R1, WH.R1 and K.R1, and Method 19 Water Management.
- 14 Of the above provisions, Policy P118 would apply to most, if not all, resource consent applications given the general nature of the policy.
- 15 When reading Schedule Q, I do not consider the matters within Community Water Supplies and Water Races sections as criteria (i.e. “a principle or standard by which something may be judged or decided”), rather they are information and assessment requirements. While the provisions with the Irrigation section include two criteria, the bulk of the provision is for information in the form of an assessment. Given the lack of clarity as to the exact criteria in the schedule, it is unclear how the criteria are to be ‘met’ in context of Policy 118 and Policy 128, or would be able to “satisfy the reasonable and efficient use criteria” within Policy 119.
- 16 In relation to **Water races**, the reference to Method M13 acknowledges the uniqueness of the water race system. Method M13 clearly outlines the Regional Council will work with the territorial authorities to develop management options for the water race systems by 2017. This has not been done. In my opinion, the opening sentence to Water Races within Schedule Q (“Ahead of the implementation of Method M13”) envisages Method M13 taking precedence over Schedule Q, and the 2017 timing stipulated in M13 indicates the evaluation with M13 would occur before the first water race renewal consent occurs in 2018. In others words, Method M13 would be given effect to prior to the implementation of Schedule Q assessment process. Given the Regional Council was aware that the first water race consent expires in late 2018 and M13 was envisaged to be ‘active’ by 2017, I consider it unreasonable to apply Schedule Q to water races when the comprehensive review of the water race system envisaged by the PNRP has not yet been undertaken. Any application for the take of water for an existing water race would be considered under discretionary rule R142 at which time a full assessment of effects can be made, including

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<sup>1</sup> Policy P118: Reasonable and efficient use  
The amount of water taken or diverted through resource consents shall be reasonable and used efficiently, including consideration of:  
(a) applying the reasonable and efficient use criteria identified in Schedule Q (efficient use) to new users immediately, while existing users replacing existing resource consents have a period of four years from the date of the plan being made operative to meet the criteria, and  
(b) maximising the efficient use of water when designing systems to convey or apply water, and  
(c) industry guidelines, and  
(d) water use records.  
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against Policy 118 Clause b), c) and d).

- 17 In relation to **Group or Community water supplies**, as with my comments in paragraph 16, the actual requirements of the schedule and relationship to other plan provisions need to be clarified. I would comment that **Group or Community water supplies** are a district council asset management function and therefore best placed to be managed by the district councils.
- 18 Based on the above I support:
- 18.1 Removal of the schedule on the basis it is unclear if it is a schedule/consideration or a requirement/standards to be met.
- 18.2 Removal of water races from any Schedule and reliance on other provisions within the PNRP and the full discretionary resource consent process.

### **Objective O32 Outstanding natural features and landscapes**

***GWRC s.42A Topic: Natural Form and Function, paragraphs 356-361 (submission S367/052 and S366/052). The officer recommends no change to the objective.***

- 19 In their submissions, MDC and SDWC sought specificity about the areas and values to be protected, particularly given that Outstanding Natural Features and Landscapes are not identified in the Regional Plan. I note that Method 24 of the PNRP provides the Regional Council will work with councils to identify a list of the features by 2017. As far as I am aware, this has not been done.
- 20 In paragraphs 357 and 358 of the officer's report, it is acknowledged that Method 24 has not been given effect to. It is my understanding that until such areas are identified and included in the PNRP (by way of variation) O32 would not apply. However, I am uncomfortable as to the implications of the proposed approach outlined in the opening comment in paragraph 258 of the Section 42 A report that:
- until such time as a process in Method M24 is completed and any plan changes undertaken, an assessment of outstanding natural features and landscapes will occur on a case by case basis, as resource consent applications are made.*
- 21 In my opinion the above implies an application for resource consent could be required to provide an assessment against Policy 25 of the RPS in terms of whether an area is an outstanding natural feature and landscape. Such an approach gives rise to such uncertainties and procedural issues that I do not believe appropriate or workable (and possibly ultra vires), and potentially impose significant unknown costs on an application.

- 22 Policy P48 PNRP provides the policy directive for O32 in that:

*The natural features and landscapes (including seascapes) of the coastal marine area, rivers, lakes and their margins and natural wetlands shall be protected from inappropriate use and development by:*

- (a) avoiding adverse effects of activities on outstanding natural features and landscapes, and*  
*(b) avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on natural features and landscapes.*

- 23 Also of relevance is Policy P49: Use and development adjacent to outstanding natural features and landscapes and special amenity landscapes, which has further implication for applications. The uncertainty created by the open-ended case by case approach proposed in the S42A report is in my opinion not appropriate given the nature of the directive policy framework under Policies 48 and 49.
- 24 To provide some certainty as to the area and values to be protected I support the following amended wording to O32. This would be consistent with Objective 17<sup>2</sup> and Policies 25<sup>3</sup> and 26<sup>4</sup> of the RPS which refer to identified landscapes and that the values be maintained or enhanced. Insertion of 'Identified' would also reflect the approach adopted in O38.

*Identified Outstanding natural features and landscapes and their values are protected from inappropriate use and development*

### **Objective O36 Significant geological features**

**GWRC s.42A Topic: Natural Form and Function, paragraphs 432-433 (submission [S367/056](#) and [S366/056](#)). The officer recommends no change to the objective.**

- 25 In their submissions, MDC and SDWC sought specificity about the areas and values to be protected under this Objective.
- 26 Objective O36 relates to Schedule J. I support amendment to the objective by inserting 'identified' within the objective to provide clarity that it is the PNRP identified significant geological features under the PNRP that are to be protected. In my opinion the amendment would provide certainty to plan users given the directive nature of the policy framework which applies to the features. Insertion of 'Identified' would also reflect the approach adopted in O38.

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2 Objective 17 The region's outstanding natural features and landscapes are identified and their landscape values protected from inappropriate subdivision, use and development.

3 Policy 25: Identifying outstanding natural features and landscapes – district and regional plans

4 Policy 26: Protecting outstanding natural features and landscape values – district and regional plans

*Identified sSignificant geological features in the coastal marine area are protected.*

### **Objective O37 Significant surf breaks**

**GWRC s.42A Topic: Natural Form and Function, paragraphs 479-481 (submission S367/057 and S366/057). The officer recommends no change to the objective.**

- 27 In their submissions, MDC and SDWC sought specificity about the areas and values to be protected under this Objective.
- 28 Objective O37 relates to Schedule K. I support amendment to the objective by inserting 'identified' within the objective to provide clarity that it is the PNRP identified significant surf breaks under the PNRP that are to be protected. In my opinion the amendment would provide certainty to plan users given the directive nature of the policy framework which applies to the breaks. Insertion of 'Identified' would also reflect the approach adopted in O38.

*Identified sSignificant surf breaks are protected from inappropriate use and development.*

- 29 I note objective O37 only relates to the CMA but the corresponding Policy 51 is not clear as to whether it is specific to the CMA or adjacent land. As a consequential amendment, I support an amendment to Policy 51 to clarify it relates to activities in the CMA.

#### *Policy P51: Significant surf breaks*

*Use and development within the Coastal Marine Area in and adjacent to the significant surf breaks identified in Schedule K (surf breaks) shall be managed by minimising the adverse effects on:*

*(a) natural processes, currents, seabed morphology and swell corridors that contribute to significant surf breaks, and*

*(b) access to significant surf breaks within the coastal marine area, on a permanent or ongoing basis.*

### **Policy P118 Reasonable and efficient use**

**GWRC s.42A Topic: Water Allocation, paragraphs 192-197 (submission S367/096 and S366/096). The officer recommends no change to the policy.**

- 30 In their submissions to P118, MDC and SWDC sought the deletion of reference to 4 years from the operative plan date, within clause (a) on the basis the time component is unnecessary and unreasonable. The clause requires that "existing users replacing existing resource consents have a period of four years from the date of the plan being made

*operative to meet the criteria; and .....*

- 31 As set out in the Section 32 Report Water Quantity (Section 6.6), Policy P118 seeks to achieve O3, O25 and O52. From reading the S32 report, I am unclear where the 4-year timeframe has derived from. I am also not clear why the timeframe is required to be stipulated within the policy, and submit it would be best placed within Schedule Q. However, this does lead back into my general concerns with Schedule Q and Policy P118 in that P118 requires users 'meet the criteria' but it is unclear from Schedule Q what criteria are to be met. The only 'criteria' I can readily identify are clauses a) and b) relating to Irrigation. The other matters within Schedule Q are in my opinion not criteria, rather requirements or provisions. I am therefore unclear if P118(a) applies solely to Irrigation or is intended to also capture Group or Community Water Supplies and Water Races. I also note the policy uses conflicting wording in that the policy introduction refers to "including consideration of" while clause a) refers to "meet the criteria". As such it is unclear if the policy requires the 'criteria' in Schedule Q be met or if they are a consideration.
- 32 The wording of Clause a) is also unclear in terms of:
- 32.1 What happens to existing resource consents that expire 4 years after the plan becomes operative. Are they required to apply Schedule Q? The current wording does not stipulate this.
- 32.2 For an existing consent that expires 3 months from the four-year operative date, are they required in the three months to apply Schedule Q?
- 32.3 Are existing consent holders required to seek consent and apply Schedule Q within the four-year operative date even if their consent does not expire for seven years from the operative date?
- 33 In my opinion the intent of the policy is clearly articulated in the wording.
- 34 I acknowledge Objective B3 of the NPSFM provides to "improve and maximise the efficient allocation and efficient use of water". Objective B3 is given effect to by Policy B4 "By every regional council identifying methods in regional plans to encourage the efficient use of water". There is no reference to a time period in the relevant provisions of the NPSFM.
- 35 Subject to any decision on Schedule Q and what form the Schedule finally takes, given the above, I request clarification of what 'criteria' the Policy refers to, and whether they are to be met or are a consideration. If Policy 118a) applies only to irrigation, I would have no concerns with the 4-year timeframe. However, if Policy 118a) applies to all the activities currently listed in Schedule Q, I consider P118 clauses b), c) and d) provide adequate

scope to consider the reasonable and efficient use of the water for existing users.

## **Rule R136 Take and use of water**

*GWRC s.42A Topic: Water Allocation, paragraphs 424-438 (submission [S367/127](#) and [S366/127](#)) and paragraphs 434, 436 (submission (further submission [FS30/106](#) and [FS26/131](#) to [S309/041](#)). The officer recommends to the rule in response to the submission points.*

### **Water Take Amount**

- 36 In their submissions, MDC and SWDC opposed Rule R136 on the basis it significantly reduces the amount of water able to be taken for an individual's reasonable use. Rural properties are generally not reticulated, and as such rely on the on-site supply of water to meet their reasonable needs.
- 37 The Regional Freshwater Plan enables up to 20m<sup>3</sup> per Certificate of Title per day (Rule 7). The proposed Plan significantly alters this framework, limiting takes firstly through the delineation of "reasonable needs" based on property area, and secondly restricting reasonable needs to a property, rather than for each Certificate of Title.
- 38 I accept the officer recommendation on the water take amount.

### **Metering**

- 39 In their further submissions, MDC and SWDC opposed the relief sought in S309/041 that "all water takes from surface water bodies and groundwater have a water meter installed, and records are kept and provided to WRC on request." I oppose such a blanket requirement for metering on the basis such a requirement would be excessive for landowners and considered unnecessary given the permitted activity status for such takes. The reporting officer recommends the relief sought in S309/041 be rejected. I support the recommendation.
- 40 However, the issue of water metering does leads to interpretation and application questions over Clause f) in that I am unclear as to how the condition is to be assessed and applied as a permitted activity condition. The condition does not stipulate on what basis metering would be required. I do not support a metering requirement as a condition of a permitted water take given the additional cost to landowners. It is also noted the 'Resource Management (Measurement and Reporting of Water Takes) Regulations 2010' excludes certain takes (e.g. less than 5 litres per second) due to cost implications<sup>5</sup>.

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<sup>5</sup> 4 Regulations apply to certain water permits

(1) These regulations apply only to a water permit that allows fresh water to be taken at a rate of 5 litres/second or more.

41 On this basis I support deletion of Clause f).

## Policy P24 Outstanding natural character [in the CMA]

**GWRC s.42A Topic: Natural Form and Function, paragraphs 199-205 (further submission FS30/056 and FS26/077 to S146/089). The officer recommends no change to the policy.**

42 MDC and SWDC further submitted in support of the amendments sought to Policy P24 to include reference to 'protecting' and avoidance in context of 'inappropriate subdivision, use and development'. Deletion of Clause (e) relating to consideration of activities outside the natural character areas was also supported.

43 In reading Policy P24 I share the concerns of submitters about the wording adopted, as well as how the areas are identified. Specifically:

43.1 It is not evident what are the Outstanding Natural Character Areas and how they will be identified in the PNRP. They are not identified in the schedule, nor in the planning maps. While Method 24 provides the areas will be identified by 2017 (for inclusion in the PNRP by plan change or variation), this has not been done. As such, the policy lacks clarity as to the area the policy applies to. Given the very directive nature of the policy, clarity over the areas is important.

43.2 Clause e) is directive in nature in that it requires to avoid adverse effects, including effects from those activities located outside the outstanding natural character area. In applying the policy, it is uncertain for plan users and the community if they trigger the policy. Given this uncertainty, the strong requirement to avoid adverse effects (regardless of scale) of activities outside Outstanding Natural Character is not supported. Policy 13 of the NZCPS 2010 does not extend to activities outside the Outstanding Natural Areas.

44 Based on the above, I would support amendment to Policy P24 as follows:

*Amend Policy 24 Identified Areas of outstanding natural character in the coastal marine area will be preserved by:*

*(a) avoiding adverse effects of activities on natural character in areas of the coastal marine area with outstanding natural character, and*

*(b) requiring use and development to be of a type, scale and intensity that will maintain the natural character values of the area, and*

*(c) requiring built elements to be subservient to the dominance of the characteristics and qualities that make up the natural character values of the area, and*

(d) maintaining the high levels of naturalness of these areas, ~~and~~

(e) avoiding the adverse effects of activities, including those located outside the area, that individually or cumulatively detract from the natural character values of the outstanding natural character area.

## Officer Recommendation Supported

### Rule R138 Water races

**GWRC s.42A Topic: Water Allocation, paragraphs 450-451 (submission (further submission FS30/107 and FS26/132 to S316/125). The officer recommends a change to the Rule.**

- 45 In their submissions, MDC and SWDC supported Rule R138: Water races - permitted activity (which relates for the take of water from a water race), on the basis it appropriately provides for takes from water races which are an important feature and asset in the Wairarapa. The take for the water race itself would require consent under R142 Discretionary activity.
- 46 The officer recommended amendments to R138<sup>6</sup> are supported as they clarify the application and intent of the rule.

#### Ruamahanga Whatitua Provisions

- 47 Within context of the rules relating to water allocation is the prohibited rule within Chapter 7 Ruamahanga Whatitua relating to takes that exceed minimum flows and core allocation. At issue is the interim nature of the prohibited rules given the Whatitua process is not progressing as fast as anticipated and the very restrictive nature and impact of the notified prohibited rule on council's activities. An example of MDC activities affected by the rule framework is the current applications for water takes for Henley Lake and QE11 Park (Lake) which are likely to gain consent for short durations (5 years) only given the uncertainty and interim nature of the provisions. The same uncertainty will likely arise late next year when the existing resource consent for the water take for the Opaki water race expires in late 2018.
- 48 I support the assessment and recommendation of the Section 42A Reporting Officer in respect of R.R3 and the consequential change to R.R1(a) and Policy P115, to exempt water races from the prohibitive activity status. In respect of the prohibited activity status for

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<sup>6</sup> Rule R138: Water races – permitted activity

The take and use of water from a water race by a single property (that is not already permitted by Rule R136 or Rule R137) shown on Map 28 is a permitted activity, provided the take and use is authorised within the by a resource consent held by the territorial authority controlling the water race.

Note

Water races shown on Map 28 are under territorial authority control and the approval of the relevant territorial authority is required to take water from a water race.

other activities, I question the appropriateness of the recommended retention of the prohibitive rules given the interim nature of the Ruamahanga Whaitua provisions. These matters are expanded on below.

**Take of Water for Water Races within the Ruamahanga Whaitua**

***GWRC s.42A Topic: Water Allocation, paragraphs 277-290***

- 49 Related to Rule 138, is the issue of the proposed prohibited activity status for the take of water for a water race at minimum flows within the Ruamahanga Whaitua. I understand the provisions within the Ruamahanga Whaitua are interim until the Whaitua process is completed and any new provisions will be initiated by a plan change or variation. The water take for the Opaki water race expires in December 2018.
- 50 The issue of water races featured strongly in the submission by the councils in terms of allowing an appropriate policy and consenting framework for water races. Water races are a long-established mechanism within the Wairarapa for conveying water for stock watering purposes. Water races are a critical part of the agricultural production base, and were developed to supply farms subject to dry conditions on the plains to help sustain ongoing agricultural practice. Other positive effects of the water race systems are the recharging of water lost from the water race to local groundwater aquifers; providing stormwater drainage during winter; and amenity, aesthetic and economic values to properties.
- 51 In relation to the rule framework relating to water races, the councils submitted in opposition of Rule R58 (which provides as a discretionary activity for the discharge of water or contaminants into water from a water race (S367/107 and 366/107)) and sought deletion of the rule and consequential amendments<sup>7</sup>. This was a broad submission point seeking an overall appropriate framework in the PNRP in respect of water races. In hearing evidence to Hearing Stream Two<sup>8</sup>, I accepted R58 on the basis that water races are differentiated from other water bodies and the proposed plans rules for the take (R142) and discharge of water (R58) apply but that other provisions not apply to water races, noting that I reserved the opportunity to comment on other rules and policy provisions that would come up at later hearings given the provisions relating to water races are split across multiple hearings.
- 52 In term of the take of water, Rule R136 provides for the general rule for the take and use of

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<sup>7</sup> Specific Relief sought "Delete Rule 58 from the Plan, and any consequential amendments to provide for the ongoing use of the water race network within the Wairarapa as a permitted activity (where the quantity of water taken into the water race network is not increased over that rate existing at the time of notification of the Proposed NRP), until such time as the outcomes of a Water Race working group (Method M18) are confirmed and a Plan Change process initiated."

<sup>8</sup> Hearing Evidence of Pauline Whitney, dated 22 July 2017, paragraph 35  
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water as a permitted activity. Where the permitted activity conditions are not met (which would be the case for the take for the water races system in terms of the permitted volume take being exceeded), consent would be required as a discretionary activity under Rule R142. I accept such an activity status and note the activity status would be consistent with the operative regulatory framework where the Councils have consent for the water take for the water races system.

- 53 As raised in Issue 2.3 of the Section 42A Report on Water Allocation<sup>9</sup>, the Ruamahanga Whaitua rule R.R3 prohibits the take and use of water where minimum flows or core allocation are exceeded. This prohibited rule has serious implications for water races in the Wairarapa, particularly in context of the Opaki water race consent which expires in late 2018. While the prohibited rule may not be in effect at that time, the proposed provisions create a greater degree of uncertainty for the water race users as to the consent renewal process. While SWDC and MDC did not specifically submit on this rule, the matter is addressed under the broad relief sought under submission points S367/107 and S366/107 in terms of seeking an appropriate framework for the management of water races, particularly considering method M13 of the PNRP which demonstrates a further example of the uniqueness of the water race systems.
- 54 Given the Whaitua process is not progressing as fast as anticipated, the very restrictive effect of the notified prohibited rule is opposed on the basis it would compromise the operation of the water races and the value they contribute to the economy in terms of being an essential supply of stock water.
- 55 The reporting officer has recommended an amendment to Rule R.R3 to exempt water races from the prohibitive activity status. I support the assessment and recommendation of the Section 42A Reporting Officer in respect of R.R3 and the consequential change to R.R1(a) and Policy P115. The recommended rule and policy framework appropriately recognises the unique characteristics and purpose of water races and provides an appropriate framework in which to consider the effects. The clarification as to the relationship between the Whaitua rules and other rules is also supported. In particular I support the reference to rules R136-141 within Rule R.R1 as it clarifies the activities within R136-R141 are not overridden by the Whaitua rules.

#### **Wider Concerns**

- 56 While not specifically submitted on by MDC and SWDC (but raised in general concerns relating to the uncertainty of the Whaitua process), there are wider concerns with the

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<sup>9</sup> Paragraphs 90, 277-290  
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Ruamahanga Whaitua prohibited activity status in respect of activities, for example the take of water for Henley Lake and Queen Elizabeth Park Lake. I understand the interim Whaitua provisions were not included in the draft PNRP. The inclusion of interim Whaitua Plan provisions have implications for community wellbeing, affordability and economic impact.

- 57 As I understand, the minimum flow levels are taken<sup>10</sup> from the operative Regional Freshwater Plan 1999. While I can understand the ideology behind a prohibited activity status in respect of water takes below minimum flows, I question the appropriateness of such a restrictive activity status given the intended interim nature of the proposed Ruamahanga Whaitua provisions. The operative plan applies a discretionary or non-complying activity status.
- 58 The concept of a prohibited activity is dealt with under Section 77B of the RMA, with the effect being that a plan change is required to occur in order to enable a particular activity to occur. The prohibited activity status is the most restrictive of any activity status and therefore must be used with care, after a robust and well considered evaluation. In my experience, the decision to use this activity status should be backed with strong evidence of its necessity, including justification through objectives and policies.
- 59 In my opinion the PNRP objective framework (O3, O6, O7, O8, O25 and O52) does not set the policy framework for a prohibited activity status, and in particular does not give effect to PNRP O8. I also do not agree with the statement provided in the Section 32 Report: Water Quantity (section 6.2.1, page 24) that “allowing applications to be made for resource consent carries with an implication that they may be granted in circumstances other than those recognised in the PNRP”. A discretionary or non-complying activity status allows for a full assessment of effects of a proposal and can be declined.
- 60 In response to reference to the Land and Water Forum second report (Section 32 Report: Water Quantity (section 6.2.1, page 24)) as the basis for a prohibited activity status when resource consent exceeds the limit, I would be hesitant for adopting an activity status solely based on the findings of a forum which are not a statutory or RMA framework document.
- 61 In regard to the interim nature of the PNRP Ruamahanga Whaitua provisions, I understand the Ruamanhanga Whaitua provisions were envisaged to be released in 2017 and a plan

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<sup>10</sup> Paragraph 5.10 Section 42A Report, Technical - Water Allocation Minimum Flows and Allocation Mike Thompson  
“5.10 For the proposed Plan, a decision was made to retain existing RFP minimum flows in all cases. This included the Waiohine and Otaki rivers where the flow studies mentioned above have indicated higher limits are justified. The reason for this decision is that changes in minimum flow have a direct and immediate impact on the reliability of supply for existing water users. This change in reliability has not been explicitly considered to date as part of the minimum flow review programme. A catchment committee process (whaitua) is currently underway in the Wellington region and is considered the best forum in which to more thoroughly consider minimum flow options and justification for change.”

change/variation initiated in 2018. This would co-relate to the PNRP plan process. I understand this timing is now not likely. Given the undefined timetable for the Whaitua process, there is the potential that the interim Ruamahanaga Whaitua provisions are likely to be in force for the foreseeable future. While a discretionary activity status is currently in effect (under section 87B.1(c) RMA), the reality is that by the end of 2018 when decisions are released on the PNRP and if there are no appeals on the provision, the prohibited provision could become operative prior to the Whaitua process. In my opinion such an outcome would be contrary to the intended interim nature of the PNRP Whaitua provisions.

- 62 The Section 42A Report Water Allocation at para 348 comments on the reasoning for the prohibited activity status as follows:

*My understanding of why Rules R.R3, WH.4, and K.R4 have a prohibited status is to ensure consents are not granted where the core allocation will be exceeded. The Section 32 report: Water quantity states that not exceeding the core allocation is a key element of the framework in Policy P107 to achieve Objective 8 of the proposed Plan. In my opinion, these prohibited rules also achieve Policy B5 of the NPS-FM.*

- 63 I note these comments are made in context of water core allocation, I can find no related discussion in the Section 42A Report relating to minimum flows, which also forms the basis for a prohibited activity.
- 64 As an example of the implications of the interim provisions, were they to become operative, the take of water for Henley Lake would be a prohibited activity. Henley Lake is a recreational artificial lake that is supplied from a water take from the Ruamahanga River as well as a discharge from the lake back into the river via a wetland. Another example is Queen Elizabeth Park Lake (created in 1907) which takes water from the Waipoua River via a pump, which is then discharged back into the Waipoua River. MDC is presently in the process of obtaining resource consents for these takes with GWRC indicating it will only issue consent for a five year period given the uncertainty as to the plan provisions and Whaitua process outcomes. Having to prepare and submit new consent applications in five years have significant cost implications for the councils.
- 65 Another aspect of the interim rules is Rule R.R1 relating to “water used by industry from a community drinking supply for a period of seven years from the date of public notification of the PNRP (31.07.2015).” The Section 42A Report addresses this issue in paragraph 508-511. For the above reasons relating to the uncertainty associated with the Whaitua process and the nature of potential changes to the Whaitua rules, I consider a seven year date from the Whaitua process provisions more appropriate as the current provisions are only interim and therefore subject to changes.

66 In my opinion the provisions proposed under Chapter 7 Ruamahanga Whaitua are best addressed at part of the ongoing Whaitua process as opposed to an interim prohibitive rule.

## Conclusion

67 My evidence is given in support of MDC's and SWDC's submissions on the PNRP in relation to Water Allocation, & Natural Form and Function.

68 This is the third hearing at which MDC and SWDC have appeared before the hearing panel with some 13 submission points (from each council) relevant to this hearing.

69 A key theme coming throughout the MDC and SWDC submissions is the issue of community wellbeing, affordability and the economic impact of the approaches proposed in the PNRP. In my opinion the PNRP is a very complex document with a large number and layer of rules which give rise to interpretation issues. It contains very prescriptive and regulated requirements, and there is a large degree of uncertainty associated with the Whaitua Process.

70 Officer's recommendations on five PNRP provisions are accepted by the Councils. The Councils are opposed to the officer recommendations relating to:

- Schedule Q Reasonable and efficient use criteria
- Objective O32 Outstanding natural features and landscapes
- Objective O36 Significant geological features
- Objective O37 Significant surf breaks
- Policy P118 Reasonable and efficient use
- Rule R136 Take and use of water
- Objective O19 Natural processes
- Policy P24 Outstanding natural character

71 In my opinion, the relief sought through this evidence would appropriately accord with provisions of Part 2 of the RMA and will help to achieve sustainable management of natural and physical resources.

Pauline Mary Whitney

22 August 2017

## Appendix A – Officer Recommendations Accepted

### Objective O38 Special amenity landscapes

*GWRC s.42A Topic: Natural Form and Function, paragraphs 522-524 (submission S367/058 and S366/058). The officer recommends no change to the objective.*

- 72 PNRP Objective O38 gives effect to Objective 18 and Policy 27 of the RPS which require the Region's special amenity landscapes be identified and the values be maintained or enhanced. Special amenity landscapes are not currently identified in the PRNP.
- 73 In addition to O38, Policy P49 has implications for resource users in that it relates to use and development in the CMA on sites adjacent to special amenity landscape **identified in a district plan** (emphasis added). On this basis, in their submissions, MDC and SDWC sought specificity about the areas and values to be protected given special amenity landscapes are not currently identified in the PRNP, nor are they identified in the Wairarapa Combined District Plan.
- 74 Policy 27 of the RPS provides district and regional plans may identify amenity landscapes. Any such areas would require inclusion in the DP (or in the Regional Plan) as part of standard plan change process. On the basis that special amenity landscapes would be subject to a formal plan change/variation process, the officer recommendation on O38 is accepted.
- 75 However, I do not support the recommendation of the reporting officer if council adopt the proposed approach outlined in the opening comment in Section 42A Natural Form and Function paragraph 258 relating to Outstanding natural landscapes (identified in paragraph 21 of this evidence) that until such time as the landscapes are identified and plan changes undertaken, an assessment of the landscapes will occur on a case by case basis, as resource consent applications are made. The Section 42A report is silent on this matter so I presume the approach outlined in paragraph 258 will not be adopted.

### Policy P115 Authorising takes below minimum flows and lake levels

*GWRC s.42A Topic: Water Allocation, paragraphs 192-197 (submission S367/095 and S366/095). The officer recommends no specific change in response to the submission point.*

- 76 The retention of Policy P115(a) to prioritise the health needs of people and community water drinking supplies is supported.
- 77 The Councils support the officer's recommended insertion of a new clause c) relating to

water races for the purpose of supplying water for the health needs of people and animal drinking water.

### **Rule R140 Dewatering**

*GWRC s.42A Topic: Water Allocation, page 143 Recommended decisions (submission S367/128 and S366/128). The officer recommends no changes to the rule in response to the submission points.*

78 Rule R140 is supported.

### **Objective O19 Natural processes**

*GWRC s.42A Topic: Natural Form and Function, paragraphs 277-281 (further submission FS30/035 and FS26/036 to S282/011). The officer recommends*

79 As raised in Hearing Stream 2 in relation to Objective 44, MDC and SWDC submitted in support of an original submission point to amend Objective O19 by replacing “minimised” with “avoided, remedied or mitigated”, and ‘interference” with “adverse effects”.

80 The officer has recommended rewording of O19<sup>11</sup>. The officer recommended rewording addresses the concerns raised in the submissions.

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<sup>11</sup> Officer Recommended O19

Natural processes, including natural elements, patterns and ecological processes continue to occur, and the integrity and functioning of natural processes and forms are retained.