

**BEFORE THE HEARING COMMISSIONERS**

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THAT MATTER OF** The Proposed Natural Resources Plan  
for the Wellington Region

**BETWEEN** Greater Wellington Regional Council

**AND** Minister of Conservation (Submitter)

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**Hearing 3:**

**Natural Form and Function**

**Water Allocation**

Supplementary legal submissions on behalf of the Minister of Conservation (submitter no  
75)

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Dated: 22 September 2017

Solicitor acting: Katherine Anton  
Department of Conservation  
Conservation House  
18 – 32 Manners Street  
Te Aro, Wellington 6011

May it please the panel

**Context**

1. The Minister of Conservation's submission (as refined through pre-hearing meetings) requested more specific conditions relating to fish being prevented from entering intakes or becoming trapped against them in Rules 136, 137 (permitted activities) and 141 (controlled activity), namely:
  - (a) A minimum screen mesh size of 3mm;
  - (b) A maximum approach velocity (the speed at which water is drawn into the intake) of 0.3m/s.
2. Ms Hammond's s 42A report recommended accepting the screen mesh size minimum of 3mm, but rejecting any requirement for a maximum approach velocity.<sup>1</sup>
3. My legal submissions at Hearing 3 noted that equivalent provisions in Auckland, Northland, BOP and Horizons regional plans have a maximum approach velocity of 0.3m/s.<sup>2</sup>
4. Rules 136, 137 and 141 in the Greater Wellington proposed Natural Resources Plan also specify a maximum rate of take of 2.5L/s.

**Further information request**

5. The panel requested further explanation as to whether the requirements for a maximum 0.3m/s approach velocity in Auckland, Northland, BOP and Horizons are also subject to the same or similar rate of take – ie 2.5L/s.
6. Appendix 1 to these supplementary submissions sets out the equivalent provisions from other regional plans on maximum flow approach velocities *and* rates of take.

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<sup>1</sup> s 42A report of Paula Hammond, para 455.

<sup>2</sup> as set out in appendix 3, legal submissions for Minister of Conservation, Hearing 3, 13 September 2017

7. The requirements are summarised in the table below.

<b>Plan provision</b>	<b>Maximum approach velocity</b>	<b>Rate of take</b>
Horizons One Plan 16-1 permitted activity rule for minor takes and use of surface water	0.3m/s	2.0l/s maximum
BOPRC Water and Land Plan, Rule 41 – permitted take and use of surface water	0.3m/s	2.5l/s maximum
BOP PC 9 WQ R 3	0.3m/s	2.5l/s maximum
Waikato Regional Plan – 3.2.4.2 – Surface Water Class Standards	0.3m/s	No specified maximum
Proposed Northland Regional Plan Rule C.5.1	0.3m/s	No specified maximum

**DATED** this 22<sup>nd</sup> day of September 2017



**Katherine Anton**

Counsel for the Minister of Conservation

## Appendix 1 – Provisions from other regional plans on maximum flow approach velocities and maximum rates of take (if any)

Key: Maximum flow approach velocity in green  
Maximum rate of take in yellow

### Horizons One Plan – Part 2: Regional Plan – 16.3 – Rules

**16-1 Minor** The take or use **Permitted** takes and of surface uses of water<sup>^</sup> surface pursuant to water<sup>^</sup> s14(2) and s14(3)(b) RMA.

- a. The rate of take must not exceed:
  - i. 400 l/ha per day for animal farming up to a maximum of 30 m<sup>3</sup>/day per **property\***
  - ii. 15 m<sup>3</sup>/day per **property\***, where the water is for any other use. The rates of take allowed under (i) and (ii) cannot be added: the maximum allowable rate of take under this rule is 30 m<sup>3</sup>/day per **property\***.
- b. **The rate of take must not exceed 2.0 l/s.**
- c. An intake screen with a mesh aperture size not exceeding 3 mm in diameter must be used and **the intake velocity must not exceed 0.3 m/s.**
- d. The take must not be from a **rare habitat\***, **threatened habitat\*** or **at-risk habitat\***
- e. The water<sup>^</sup> must be used on the **property\***.
- f. The Regional Council must be notified in writing of the location of the take, the maximum instantaneous rate of take and the intended use of water<sup>^</sup>.

### BOPRC Water and Land Plan, Rule 41 - Permitted – Take and Use of Surface Water

(c) *Where the take is from a river or stream, **the rate of abstraction shall not exceed 2.5 litres per second or 10% of the estimated five year low flow (Q5 7 day low flow) at the point of abstraction whichever is the lesser.***

(d) *Where the take is from a river or stream, the total abstraction (all users) of surface water takes shall not exceed the instream minimum flow requirement (including the default instream minimum flow requirement) for the river or stream at any point.*

(e) *The intake structure shall be screened with a mesh aperture size:*

(i) *Not exceeding three (3) millimetres by 30 millimetres in the tidal areas of rivers and streams.*

(ii) *Not exceeding five (5) millimetres by 30 millimetres or five (5) mm diameter holes in any other area that is not in the tidal area of a river or stream.*

(f) *The intake velocity through the screen shall not exceed 0.3 metres per second.*

### Bay of Plenty Plan Change 9

#### WQ R3

In addition to any take under section 14(3)(b) of the Act, the take and use of water from any surface water body where the water has a temperature of less than 30° Celsius, and the quantity taken does not exceed 15 cubic metres per day per property is a Permitted Activity subject to the following conditions:

(a) The take and use is registered with the Bay of Plenty Regional Council within one year of this regional plan becoming operative, or for new takes, prior to their commencement and the following information is provided to Council:

(i) Location of take;

(ii) General purpose for which water is being used;

(iii) Confirmation that requirements (b) to (g) can be met;

(iv) Whether the take also provides for stock or domestic drinking requirements; and

(v) Name, address and contact details of person responsible for the take and use.

(b) Where the quantity of water taken under this rule, in combination with stock drinking water taken under section 14(3)(b) of the Act exceeds 15 cubic metres per day per property, water meters must be installed to separately record stock drinking water and all other water taken. Records are to be provided to Bay of Plenty Regional Council in an electronic format on a monthly basis within 28 days following the end of each month.

(c) *The rate of take does not exceed 2.5 litres per second.*

(d) No additional water is taken under WQ R1 or WQ R2.

(e) The take is not from a water resource that is fully allocated at the time the take is established, unless the take was established prior to 18 October 2016.

(f) The take is not from a wetland or waters draining into a wetland.

(g) *The intake velocity through the screen shall not exceed 0.3 meters per second.*

(h) Where the take is from a river or stream, the total abstraction (all users) of surface water takes shall not exceed the interim instream flow at any point.

Proposed Northland Regional Plan:

Rule C.5.1.1 - Minor takes – permitted activity

The taking and use of water from a river, lake or aquifer is a permitted activity provided:

1) the take is not from a fully allocated river or aquifer, unless the take and use was authorised at 1 September 2017, and

2) the total daily take per property from all sources does not exceed:

a) one cubic metre from a coastal aquifer, or

b) from other water bodies:

i) 10 cubic metres, or

ii) 200 litres per hectare, up to a maximum of 20 cubic metres, and

3) the water is not taken when:

a) the flow in a river is below a minimum flow,

b) or water level in a lake is below a minimum level, and

4) the take does not exceed an allocation limit, and

5) the take does not cause any change to the seasonal or annual level of any natural wetland, and

6) the take does not adversely affect the reliability of any existing authorised take, and

7) for surface water takes, the water intake structure is designed, constructed, operated and maintained so that:

a) the maximum water velocity into the entry point of the intake structure is not greater than 0.3 metres per second, and

b) for takes from coastal rivers or outstanding rivers, the intake screen mesh spacing is not greater than 1.5 millimetres, or

c) for takes from small rivers or large rivers, the intake screen mesh spacing is not greater than three millimetres, and...

Waikato Regional Plan - 3.2.4.2 Waikato Region Surface Water Class Standards – Standards

- c. All water intake structures shall be screened with a mesh aperture size not exceeding three millimetres in diameter at locations less than 100 metres above mean sea level, or five millimetres in diameter at locations greater than 100 metres above mean sea level.
- d. The maximum intake velocity for any water intake structures shall not exceed 0.3 metres per second.