

Before the Hearings Panel - TANK Hearings 22 June 2021

Te Taiwhenua o Heretaunga Submissions

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The S42A Addendum Report and Appendices

Freshwater Management Units

1. A hearings panel for a plan change is required to make their decisions on the matters raised in submissions, and not be reliant on a process that is outside of their control. The hearings will be over before HBRC has decided what to do about FMUs on a regional basis.
2. The NPSFM directs lower tier policy around FMUs. Not enabling FMUs within PPC9 means that the plan change provisions and methods, and the water management areas, will need to promote the purpose of the RMA in their own right, while prioritising the health and well-being of water above all other uses for water. This is a prerequisite whether HBRC has developed implementation pathways for Te Mana o te Wai and FMUs or not.
3. The water management areas in the PPC9 Schedules and associated rules and provisions fail to do this as they enable the continuation of unsustainable abstraction and use of surface water¹ and mining of the Heretaunga Aquifers².
4. Te Taiwhenua o Heretaunga supplied a report under contract to HBRC for the Ngaruroro River catchment that included specifics for 3 FMUs and values associated with these³. For the four TANK catchments, the mana whenua group came up with 11 FMUs.

Existing and expired consents

5. These consents for groundwater and surface water takes have specific conditions including for some, compliance with minimum flow restrictions. Rolling them over for ten years means that the existing consent conditions will prevail.
6. The assessments of effects and the granting of consents to take and use groundwater were made subject to operative objectives and policies that existed at that time. These include RRMP Objective 44 *“The maintenance of a sustainable*

¹ EIC M. W. Black - Appendix 9 TToH_MBlack - Irrigation Ban Days.

² EIC M. W. Black – Appendix 5 TToH_MBlack – SOE Groundwater levels.

³ Values and Attributes Report, McArthur, Black, Apatu et al, October 2016.

groundwater resource” and Policy 77 d) “To manage takes of groundwater to ensure abstraction does not have an adverse effect on rivers, lakes, springs, or wetlands.”

7. PPC9 seeks to remove these provisions and restrictions (and others) from applying in TANK catchments (provisions in RRMP Chapters 5.4, 5.5, 5.6, and 5.7), while allowing for the rollover of consents that were issued under them.
8. This affects 600 expired consents to take groundwater and numerous consents to take surface water. It also undermines their consent conditions as they are required to comply with the conditions of consent, but some of the RRMP provisions that these conditions are based on, will no longer apply in TANK catchments.
9. Little control over numerous consents as the deletion of Chapter 5 sections from applying in TANK catchments, means that some consent conditions become null and void. The s42A and s42A Addendum reports do not address this. consequence.

Actual and reasonable use

10. The s42A reports and commissioners have amended PPC9 to allow for the “maximum use” over the last ten years to apply to resource consents. This means that the 90 Million m³ interim limit for groundwater takes from the Heretaunga Groundwater resource will increase to 105 Million due to application of the “maximum use⁴” in the definition for “actual and reasonable use”.
11. Te Taiwhenua o Heretaunga still seek an abstraction limit of 70 Million m³ per annum from the Heretaunga Plains Aquifer System as the current abstractions are having adverse effects on surface water flows and are leading to steady decline in groundwater levels.
12. For surface water, actual and reasonable use as specified in the glossary for PPC9 will replace use (volumes) that were founded on a scientific methodology – the summer 7-day Q95. Actual and reasonable use is based on demand pressure and not on sustainable management of the water resource while protecting instream habitat and life-supporting capacity of water, and providing for the relationships of Māori with freshwater resources.
13. The Appendix 11 technical memo acknowledges that more water is coming out of the Heretaunga Plains Aquifers than is going in, so the groundwater resource and the surface waters that are being adversely affected due to the cumulative effects of groundwater pumping, are degrading⁵. Actual and reasonable use does not take into account, nor avoid, remedy or mitigate, these adverse effects.

⁴ Estimates for the 2019-2020 year.

⁵ Middlemiss, H. 2018b. Independent Review of Heretaunga Groundwater Model – Calibration and Prediction.

Tikanga Māori and cultural relationships

14. PPC9 trends towards enabling of economic opportunities in its current form (s42A Addendum report version) and the continued displacement of cultural values and practices in favour of abstractive uses for water, while water regulators consider what to do to minimise restrictions on such uses.
15. The requirement to recognise and provide for Māori relationships with freshwater resources is a constant requirement, which water managers have failed to address throughout PPC9. Te Taiwhenua o Heretaunga have made amendments to the proposed plan⁶ but the required amendments to ensure the active protection of Māori values and beliefs, is difficult to achieve when the over-riding focus of the plan is enabling unsustainable practices and water use to continue.
16. The Treaty principle of Active Protection in the RRMP, is not considered at a level (in PPC9) where it has positive results for Māori and their cultural relationships and values associated with freshwater resources. Declining groundwater levels and diminished spring flows due to cumulative effects of groundwater abstraction require positive action now, rather than delaying things until a “potential” solution eventuates.
17. Where Te Taiwhenua o Heretaunga sought elevation of the Mauri value as a critical value in PPC9 and Schedules, while the s42A Addendum report does not recommend any changes to cater for this. This is despite the operative Regional Policy Statement requiring the avoidance, remediation or mitigation of any adverse effects on Mauri from activities that affect freshwater resources. PPC9 still has the Mauri value/concept as being subservient to things like algae, where it is presumed that managing algal growth (as a critical value) will then cater for a healthy state of Mauri.
18. Neither does PPC9 require the monitoring of Mauri to ensure that the adverse effects of activities on the state of Mauri in freshwater, are considered through consent application criteria so such effects are managed appropriately. We have made some amendments to PPC9 in this regard. Although several objectives require the Mauri of water to be maintained or improved⁷, PPC9 does not provide a mechanism to ensure that this actually occurs.



⁶ Supplementary Evidence of M W Black, Appendix A.

⁷ E.g. Objectives 5, 8, 10, 11, 12, 13, 14, 15.

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**FRESHWATER MANAGEMENT UNITS
EXISTING AND EXPIRED CONSENTS
ACTUAL AND REASONABLE
TIKANGA MĀORI MATTERS**

Freshwater Management Units (FMUs)



**MAKE DECISIONS ON MATTERS RAISED IN
SUBMISSIONS INCLUDING FMUS.**

**PPC9 MUST PROMOTE THE PURPOSE OF THE
ACT IN ITS OWN RIGHT**

**GIVING PRIORITY TO THE HEALTH AND WELL
BEING OF WATER RESOURCES REMAINS
WHETHER THERE IS AN AGREED PATHWAY FOR
IMPLEMENTING TMOTW OR NOT**

Existing and expired consents



POTENTIAL FOR 10-YEAR EXTENSION

EXISTING CONSENT CONDITIONS PREVAIL

**THE PLAN PROVISIONS ON WHICH SOME OF
THESE ARE BASED, NO LONGER APPLY**

**EXISTING GROUNDWATER ALLOCATIONS
CONTINUE FOR TEN YEARS – POTENTIALLY 180
MILLION M3**

Actual and reasonable use



INTERIM LIMIT OF 90 MILLION M3

**APPLYING THE MAXIMUM USE OVER THE LAST
10 YEARS EQUATES TO 105 MILLION M3 FOR
GROUNDWATER**

**HERETAUNGA AQUIFER SYSTEM IS BEING
MINED**

**TE TAIWHENUA O HERETAUNGA STILL SEEK 70
MILLION LIMIT AND CONSEQUENTIAL
AMENDMENTS TO PPC9 TO ENABLE THIS**

**GREATER CONSIDERATION FOR SURFACE WATER
DEPLETION IN PPC9 IS REQUIRED**

Tikanga Māori – cultural relationships with water resources



**KAITIAKITANGA PRACTICES ARE LIKELY TO
DIMINISH MORE THROUGH PPC9**

**REPATRIATION, RECOGNITION AND
PROVISION ARE REQUIRED**

**CONSIDERATION FOR CULTURAL
RELATIONSHIPS, MAURI AND CUMULATIVE
ADVERSE EFFECTS**

**DUTY OF ACTIVE PROTECTION THROUGH
PPC9 (TREATY PRINCIPLE)**