

## **1.0 Resource Consent Application WAR 010315 – M & C Moran**

Michael and Carolyne Moran lodged a resource consent application to take water from Lake Wairarapa on 3 October 2001. The application included an 'Assessment of Environmental Effects' (AEE) report which gave details on the potential effects of the proposed abstraction and outcomes. As the Planning & Resources Department faced some difficult issues in determining affected parties and the fact that two recent applications for taking water from Lake Wairarapa were notified, it was decided to notify the application.

The application made is for the taking of up to 48 litres/sec, for 23 hours per day, 7 days per week, October to April inclusive. Water will be used to irrigate up to 80 hectares of dairy farm pasture. The location of the proposed abstraction is a drain that discharges into the eastern shoreline of Lake Wairarapa approximately 900 metres south of where the Mangatete backwater enters the lake.

## **2.0 Resource Consent Process**

### **2.1 Notification**

The application was notified on Wednesday 10<sup>th</sup> October 2001. An advertisement was placed in the Wairarapa Times Age and Wairarapa News and a sign was placed outside the applicant's property on Kahutara Rd. The following parties were also individually notified:

- Wellington Fish & Game Council
- Department of Conservation
- Rangitaane O Wairarapa
- Ngati Kahungunu ki Wairarapa
- Ministry for the Environment
- South Wairarapa District Council
- South Wairarapa District Council  
Maori Standing Committee
- Ducks Unlimited
- Wairarapa Yacht Club
- QEII Trust
- Wellington Botanical Society
- Ngati Hinewaka me ona Karanga Trust  
/ Kohunui Marae
- Forest & Bird (Wairarapa Branch)
- NZ Historic Places Trust
- Wellington Conservation Board
- Royal Forest & Bird Protection Society
- Te Puni Kokiri
- Ministry for the Environment
- All consent holders who irrigate from  
Lake Wairarapa and its margins
- All landowners adjacent to the eastern  
shoreline of Lake Wairarapa

The period for lodging submissions closed on Thursday 8<sup>th</sup> November 2001.

### **2.2 Submissions**

Two submissions were received from the South Wairarapa District Council Maori Standing Committee and the Department of Conservation (see [Table 1](#) on the following page). Full copies of the submissions can be viewed in [Appendix I](#).

A pre-hearing meeting was not considered appropriate given that the issues raised in submissions were easily resolved through consent conditions. The Department of Conservation was the only submitter who requested to be heard at hearing. They withdrew their right to be heard at a hearing subject to the proposed consent conditions. The applicant has also stated that they are satisfied that a formal hearing is not required to be held (see

Appendix II). The proposed consent conditions in my view satisfy the issues raised by the South Wairarapa District Council Maori Standing Committee who expressed that they did not wish to be heard at a hearing. The applicant has also agreed to the proposed consent conditions (see Appendix II)

Table 1: Summary of Submissions

<b>Submitter</b>	<b>Status</b>	<b>Summary</b>
South Wairarapa District Council Maori Standing Committee	Conditional Support	General support given to proposals but requested that WRC give due consideration to water application rates, riparian planting, and night irrigation.
Department of Conservation	Conditional Support	Requested that the taking of water be restricted when Lake Wairarapa target levels are approached, and that that taking of water is prevented when the target levels are reached.

### **3.0 Statutory Reasons for Consent Requirements**

**Section 14** of the Resource Management Act 1991 states the **restrictions relating to water**:

*(1) No person may take, use, dam, or divert any.....*

*....(a) Water .... unless the taking, use, damming, or diversion is allowed by subsection (3).....*

*....(3) (a) The taking, use, damming, or diversion is expressly allowed by a rule in a regional plan (and in any relevant proposed regional plan) or a resource consent;*

The current operative plan is the **Regional Freshwater Plan (RFP)**. Rule 7 of the RFP allows for the taking of up to 20,000 litres per day as a permitted activity, subject to four conditions. Any abstraction that does not meet the requirements of Rule 7 is considered a discretionary activity under Rule 16 of the RFP, and therefore require a resource consent. The application referred to in this report does not meet Rule 7 requirements hence a resource consent application has been made.

### **4.0 Matters To Be Considered**

#### **4.1 Section 104 - Resource Management Act (1991)**

*Section 104* of the *Resource Management Act 1991* outlines the matters that a consent authority is to have regard to when considering an application. Section 104 gives precedence to Part II of the Resource Management Act (RMA).

**Section 5** of the RMA defines sustainable management as:

*“managing the use development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while:*

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying or mitigating any adverse effects of activities on the environment.”*

**Section 6** concerns matters of national importance including the natural character of and public access to the margins of waterbodies, protecting outstanding features, significant indigenous vegetation and fauna, and the relationship of the tangata whenua with ancestral lands, water, sites, waahi tapu and other taonga.

**Section 7** addresses other matters, such as kaitiakitanga, efficient use and development of natural and physical resources and their finite characteristics, amenity values and ecosystems, heritage values, quality of the environment, and the habitat of trout and salmon.

**Section 8** requires that the principles of the Treaty of Waitangi be taken into account. There is no land associated with the application that is in Maori ownership or of particular interest to Maori. The Treaty is addressed in general terms by ensuring that the effects of the proposal are adequately assessed and conditions set to provide protection to the environment.

The relevant parts of section 104(1) of the Act are outlined below:

Matters to be considered -

- (1) *Subject to Part II, when considering an application for a resource consent and any submissions received, the consent authority shall have regard to-*
  - (a) *Any actual and potential effects on the environment of allowing the activity; This is discussed further in section 5 of this report*
  - (c) *Any relevant ... regional policy statement ... The regional policy statement is operative - relevant sections are discussed in section 4.2.*
  - (d) *Any relevant objectives, policies, rules or other provisions of a plan or proposed plan; The Regional Freshwater Plan is operative - relevant sections are discussed in section 4.3*
  - (e) *Any relevant district plan or proposed district plan, where the application is made in accordance with a regional plan; There are no additional matters in the South Wairarapa District Plan that relate to this application that are not covered under other planning documents.*
  - (g) *Any relevant water conservation order; Lake Wairarapa is subject to the National Water Conservation (Lake Wairarapa) Order 1989. The Lake Wairarapa Management Guidelines 1991 were developed in response to the granting of the water conservation order, hence both the above documents are relevant in considering this application. These documents are discussed further in section 4.4.*

- (i) *Any other matters the consent authority considers relevant and reasonably necessary to determine the application.* The operation of the Barrage Gates play a critical role in maintaining appropriate lake levels. The Operations Department of the Wellington Regional Council hold a resource consent to operate the Barrage Gates, hence in determining this application, conditions on this resource consent need to be considered.

## 4.2 Regional Policy Statement

The Regional Policy Statement (RPS) contains three objectives relating to fresh water in the Region

- (1) The *quantity* of fresh water meets the range of uses and values for which it is required, safeguards its life supporting capacity, and has the potential to meet the reasonably foreseeable needs of future generations.
- (2) The *quality* of fresh water meets the range of uses and values for which it is required, safeguards its life supporting capacity, and has the potential to meet the reasonably foreseeable needs of future generations.
- (3) Freshwater resources of significance or of high value for cultural, spiritual, scenic, ecosystem, natural, recreational, or other amenity reasons are protected or enhanced.

Sixteen policies were developed, in line with the objectives, and were incorporated into the RPS. The relevant policies that need to be taken into consideration when assessing this application concern:

- Policy 1 - Manage fresh water quantity and quality for a wide range of uses and values. In particular for surface water any adverse effects on aquatic ecosystems are avoided, remedied or mitigated.
- Policy 2 - Promote water conservation and efficiency.
- Policy 10 – Manage quality and quantity of water in Lake Wairarapa which is identified as having regional significant natural features; indigenous vegetation and habitats; heritage and recreational values.
- Policy 13 - Recognise cultural relationship of tangata whenua with rivers including managing significant sites.
- Policy 14 – Protect the healthy functioning of wetlands and their biological communities from inappropriate uses of water.

The full relevant policies for the RPS identified are attached as Appendix III.

## 4.3 Regional Freshwater Plan

The Regional Freshwater Plan (RFP) has identified issues, objectives, policies, rules, and methods for managing freshwater resources in the Wellington Region.

**Section four** of the RFP outlines general provisions for the use and development of fresh water resources. These general provisions are grouped into tangata whenua values, natural values, amenity values, and use and development. There are certain policies that are pertinent to these applications:

- Policy 4.2.10 – Avoid adverse effects on Lake Wairarapa and its margins, when considering the protection of its natural character.
- Policy 4.2.11 - Avoid, remedy, or mitigate the adverse effects of the use and development of water bodies by having regard to maintenance of biological and physical processes, habitat, diversity, fish movement and spawning, and prevention of irreversible adverse effects.
- Policy 4.2.15 – Avoid, remedy, and mitigate any adverse effects of use of Lake Wairarapa which is regionally significant for its amenity and recreational values by managing water quality and lake levels in accordance with policy 6.2.12.
- Policy 4.2.23 - Have regard to benefits arising from the proposal;
- Policy 4.2.24 - Have regard to effects on other established activities;
- Policy 4.2.31 - Ensure that the process for making decisions is fair and transparent;
- Policy 4.2.33 – Provide for activities which have no more than minor adverse effects on the environment.

Section five of the RFP outlines issues, objectives, policies, and methods for water quality. Relevant policies in this section are:

- Policy 5.2.2 – Manage water quality in Lake Wairarapa in accordance with the National Water Conservation (Lake Wairarapa) Order 1989.

**Section six** of the RFP outlines issues, objectives, policies, and methods for water quantity and the taking of fresh water. Relevant policies in this section are:

- Policy 6.2.6 – To allocate water for irrigation purposes up to a maximum rate of 350 m<sup>3</sup>/hectare/week.
- Policy 6.2.7 – To encourage users to take groundwater as an alternative to surface water resources.
- Policy 6.2.12 – Manage water levels in Lake Wairarapa according to the table below:

<b>Time Period</b>	<b>Water level (chart datum)</b>
1 December to 29 February	10.15 metres
1 March to 31 May	10 metres
1 June to 30 September	9.95 metres
1 October to 30 November	10 metres

- Policy 6.2.18 – To have regard to whether the amount of water required is reasonable given the intended use.

The full relevant policies for the RFP identified above are attached as Appendix IV.

#### **4.4 National Water Conservation (Lake Wairarapa) Order 1989 and Lake Wairarapa Management Guidelines**

The **National Water Conservation (Lake Wairarapa) Order 1989** recognises that the outstanding features of the wildlife habitat, particularly on the eastern shoreline, are in part due to the natural fluctuations of water levels. The order states that no water rights shall be granted if the effect would be to diminish significantly the outstanding wildlife habitat features of any part of the lake. A full copy of the national water conservation order are attached as Appendix V.

The **Lake Wairarapa Management Guidelines** developed in 1991 are essentially an extension of the national water conservation order for the lake. They specify minimum lake levels, which are reflected in the Regional Freshwater Plan (refer to table above). Section 2 of the guidelines outlines objectives for water management in Lake Wairarapa and its immediate margins. There is a specific part in this section that relates to water rights. Section 2.1.4 (b) states:

*“To allow water extraction, diversion, and discharge in the core area in accordance with the provisions of the National Water Conservation (Lake Wairarapa) Order 1989 for Lake Wairarapa, and so that the wildlife habitat features of the rest of the core area are not diminished significantly.”*

The Hearings Committee is required to have regard to these issues, objectives, policies in the Regional Policy Statement, Regional Freshwater Plan, Lake Wairarapa Water Conservation Order 1989, Lake Wairarapa Management Guidelines, and consent conditions of Operations Department Barrage Gates consent, when considering this application.

## **5.0 Assessment of Resource Consent Application and Resolution of Submissions**

The assessment of the resource consent application includes outcomes of resolutions from submissions. The assessment is broken down into the following categories:

1. Minimum water levels for Lake Wairarapa
2. Water quality in Lake Wairarapa
3. Effects on fish
4. Effects on tangata whenua values
5. Water conservation and efficiency
6. Alternative methods

### **5.1 Minimum Water Levels for Lake Wairarapa**

The AEE report supporting the application assessed the potential effects of the proposed abstraction on reducing the water level in Lake Wairarapa. The lake would be expected to drop by 6 mm after 100 days continuous pumping<sup>1</sup>. The cumulative effect of the proposed abstraction and existing consents to take water from Lake Wairarapa and its margins would result in a decline of 35 mm after 100 days continuous pumping.

The eastern shoreline has significant wildlife values. The shoreline has a very shallow gradient and part of the key to its significant values, is the change in water levels the shoreline experiences. As there are more significant changes in lake levels due to climatic conditions and operation of the Barrage Gates, I believe the proposed abstraction will not significantly diminish the outstanding wildlife values of Lake Wairarapa, particularly the eastern shoreline. The applicant's property is surrounded by pastoral farmland. The only significant wetland near the proposed abstraction point is the J K Donald Reserve, which is located more than 1 km north of the proposed abstraction point.

A condition is proposed that will prevent the taking of water below minimum lake levels specified in the Lake Wairarapa Management Guidelines, Regional Freshwater Plan, and

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<sup>1</sup> This assessment assumes a lake area of 6700 hectares when the lake level is 10.0 metres.

Barrage Gates consent held by the Operations Department. In the AEE report, the applicant has stated that they would accept any condition relating to maintaining minimum lake levels. A key to the conditional support expressed by the Department of Conservation, was that a condition be placed on the consents (if granted) that prevents the taking of water below minimum lake levels. The Department of Conservation have provided written approval to the condition and withdrawn their right to be heard at a hearing.

## **5.2 Water Quality in Lake Wairarapa**

No assessment was provided in the AEE report about the potential effects of the proposed abstractions on water quality. It is my view that the proposed abstractions will not adversely affect water quality in Lake Wairarapa.

## **5.3 Effects on Fish**

The applicant has stated that the pump intake will be screened to prevent fish entry into the intake. It is proposed to include a consent condition to mitigate the potential effects of fish being sucked into the pump intake.

## **5.4 Effects on Tangata Whenua Values**

Lake Wairarapa is of great significance to local iwi. The applicant consulted with both local iwi authorities, Rangitaane o Wairarapa and Ngati Kahungunu ki Wairarapa, when the application was lodged. Both local iwi authorities and local hapu (Ngati Hinewaka me ona Karanga Trust / Kohunui Marae) were individually notified and given the opportunities to lodge submissions. No submissions from iwi or hapu groups were received.

As no issues of concern have been raised by local iwi or hapu through consultation and the notification process, and the fact that the proposed consent conditions are consistent with the Lake Wairarapa Management Guidelines and National Water Conservation (Lake Wairarapa) Order 1989 (of which local iwi and hapu made significant contributions), I am satisfied that tangata whenua values have been appropriate considered and addressed.

## **5.5 Water Conservation and Efficiency**

The maximum irrigation application rate to irrigate 80 hectares equates to 347.8 m<sup>3</sup>/hectare/week. This is just under the maximum irrigate rate of 350 m<sup>3</sup>/hectare/week specified in the Regional Freshwater Plan. I am satisfied that the amount of water requested is reasonable given the intended use and that it complies with policy in the Regional Freshwater Plan. A standard condition of consent requires that the irrigation systems are designed and maintained so that any excess water does not run to waste.

## **5.6 Alternative Options**

The applicant has assessed alternative options for an irrigation supply in the AEE report. The only alternative option is groundwater. Council staff have expressed concern about the sustainability of the groundwater resource in the Kahutara area of the Lower Valley groundwater zone hence the applicant believes that taking water from Lake Wairarapa is a more sustainable option. Also there are high iron levels in groundwater in the area, which may block irrigation pipes. I am satisfied that the applicant has appropriately considered alternative options as required by policy in the Regional Freshwater Plan.