

**BEFORE THE INDEPENDENT HEARING COMMISSIONERS ON BEHALF OF THE NORTHLAND
REGIONAL COUNCIL (NRC)**

Under: the Resource Management Act 1991

In the matter of: 24 applications for new and increased groundwater takes from the Aupōuri Aquifer subzones: Waihopo, Houhora, Motutangi, Paparoe, Sweetwater, Ahipara and Other

Applicants: Te Aupōuri Commercial Development Ltd, Waikopu Avocados Ltd, Henderson Bay Avocados Ltd, Far North Avocados Ltd, P McLaughlin, NE Evans Trust & WJ Evans & J Evans, P & G Enterprises (PJ & GW Marchant), MP Doody & DM Wedding, A Matthews, SE & LA Blucher, NA Bryan Estate, SG Bryan, CL Bryan, KY Bryan Valadares & D Bryan (Property No 1), MV Evans (Property No 2), MV Evans (Property No 1), Tuscany Valley Avocados Ltd (M Bellette), NA Bryan Estate, SG Bryan, CL Bryan, KY Bryan Valadares & D Bryan (Property No 2), Avokaha Ltd (c/- K Paterson & A Nicholson), KSL Ltd (c/- S Shine), Tiri Avocados Ltd, Valic NZ Ltd, Wataview Orchards (Green Charteris Family Trust), Mate Yelavich & Co Ltd, Robert Paul Campbell Trust, Elbury Holdings Ltd (c/- KJ & FG King), Te Rarawa Farming Ltd and Te Make Farms Ltd

SUPPLEMENTARY COMMENTS AND CLARIFICATIONS

Stephanie Kane & Brydon Hughes

Date: 3 September 2020

Purpose of this document

1. This document provides additional comments and clarifications to matters raised by the Department of Conservation and the Commissioners during the course of the hearing to date.

Lake level monitoring network

2. Section B “Definitions” of the Proposed Regional Plan for Northland (pRPN) identifies 10 dune lakes within the Aupōuri Peninsula that have been classified as having outstanding or high natural ecological values. Two of the outstanding lakes – Lake Waihopo and Lake Ngatu – are located within the modelled area of effects for the proposed groundwater takes. Council has advised that it recently undertook a review of its monitoring network. As a result of this review, Council will be reducing its current Lake monitoring programme so that only Outstanding Lakes are monitored. This reduced monitoring programme is to allow a greater amount of monitoring to occur for water quality and levels, at more frequent intervals, so that any changes can actually be recorded. It is expected that this change to the lake monitoring programme will occur over the next two to five years..
3. As noted in the supplementary 42A report, lake level sensors are installed at a number of lakes within the Far North. If it is considered that other lakes currently monitored by Council are required to be monitored for the proposed takes (if granted), the ongoing maintenance of equipment and monitoring of levels could be undertaken at the expense of the applicants.

A map of the monitored lakes is attached at Annexure A.¹

Staged Implementation Monitoring Programme Review (SIMPR) process

4. As previously discussed, the Council has initiated the SIMPR process for three of the current MWWUG consent holders who wish to move to Stage 2 allocations under their consents. The SIMPR process is detailed in the MWWUG GCMP and is included in the proposed GCMPs for these applications. The Department of Conservation has a role in this process, and the review includes provision for the Department to undertake its own review of, and response to, the council’s report prepared as part of the SIMPR. The SIMPR process that is currently in progress relates to three of the MWWUG consent holders only and is expected to be completed around the end of November. Other MWWUG consent holders remain at Stage 1 or are yet to enact their consents and will be required to progress through a separate SIMPR process when they wish to move to their Stage 2 allocations.
5. Part (c) of Section 2 of the MWWUG GMCP outlines the framework for adaptive management, as follows:

Staged development - Abstraction volumes will progressively be increased in a staged manner, with expansion contingent on compliance with yet to be established trigger levels and on regular reviews of groundwater level, wetland ecology and hydrology, and salinity monitoring results. It is noted that the consent

¹¹ Not all lakes in the FENZ database are named, so names and FENZ ID references from the Champion and de Winton report have been used.

documentation requires that all development starts at Stage 1 volumes whether or not others have progressed to Stage 2 or further. This is an essential mechanism for staging as an adaptive management response

6. Though it would be ideal, Council does not consider it necessary that consent holders are required to have abstracted their full Stage 1 allocation volumes during an irrigation season prior to initiating a move to Stage 2 allocation. It may in fact be impractical to require consent holders to utilise their full Stage 1 allocations, for example, in the case of a wet year with limited irrigation requirements followed by a drought year where irrigation needs are higher.
7. Stage 1 allocations were set sufficiently low that the risk of adverse effects occurring would also be low, and would allow consent holders to plant orchards while enabling baseline information to be collected to facilitate the setting of trigger levels. That a limited number of consent holders have exercised their takes (or have done so at lower volumes) assists the establishment of a baseline that includes a lower degree of abstraction and allows for a more conservative assessment in setting trigger levels. .
8. The SIMPR process is considered to mitigate any risk of going to Stage 2 regardless of whether the full Stage 1 allocation had or had not been used by a consent holder. It is also considered unlikely that the Stage 1 allocation volumes equate exactly to the water requirement of a planted orchard, given the methodology through which they were set at 25 percent. It would be likely that a consent holder would make an application to move to Stage 2 allocation before the full Stage 1 allocation is used, in order to ensure sufficient water for a following year.
9. Notwithstanding the above, Council considers that the SIMPR process for the MWWUG consents is separate from, and should not influence, the assessment of these new applications.

Sweetwater sub-zone allocation limits and activity status

10. At face value, the proposed take volumes would appear to exceed the overall allocation limit for the Sweetwater sub-aquifer zone by 1.1 percent. However, as discussed, Council's current method for calculating allocation within the Aupōuri Aquifer freshwater management unit (FMU) considers cross-boundary effects based on a nominal zone or radius of influence where takes occur in proximity to sub-zone boundaries. Using this methodology, the total allocated proportion of the allocation limit for the Sweetwater sub-zone is 73.3 percent².
11. The issue of 'double counting' within the Sweetwater sub-zone has been discussed by Mr Hughes and Mr Williamson. There is an existing consent held by Te Waka Pupuri Putea and Te Rūnanga o Ngāi Takoto (formerly held by Landcorp) for stock drinking water and dairy shed supply, which authorises an annual allocated volume of 200,000m³. The Council allocation for the Sweetwater sub-zone includes the permitted activity water requirements for 3,197 dairy cattle at 140 L/day for combined drinking and dairy shed wash down water, which equates to an annual allocation of 163,367m³. In essence, this water requirement is

² Refer to Table 3 at page 233 of the Hearing Agenda

provided for as both a consented take and a permitted activity. If the permitted activity volume is removed from the current allocation calculation for the Sweetwater sub-zone, the total existing and proposed allocation as a proportion of the sub-zone limit is reduced from 101.1 percent to 97.6 percent.

12. Notwithstanding the above comment regarding double counting, Council's position is that the pRPN sets allocation limits for the Aupōuri Aquifer FMU, but does not stipulate how the allocation within it is calculated. The cross-boundary method is Council's most current method for calculating sub-zone allocation as it more accurately reflects what would happen at a regional scale.

Amendment of the existing MWWUG GMCP

13. The Department of Conservation and the Commissioners have raised questions around the legality of amending the existing MWWUG GCMP to absorb the proposed Middle group takes (if granted) through this consent process. At section 1.3, the MWWUG GCMP includes a mechanism through which it can be amended at any time to:

- *incorporate new or replacement water permits, or remove water permits, in the Waiharara, Motutangi or Houhora sub-aquifers of the Aupōuri aquifer management unit that have overlapping and/or additional monitoring requirements or which are subject to different trigger levels or trigger levels based on monitoring described in this GMCP;*
- *Alter the nature and scope of the required monitoring (i.e. monitoring frequency and intensity (type and number of samples)) and associated trigger levels;*
- *Incorporate or remove parties who are, or may need to be, a part of this GMCP to ensure Objective 1 is met.*

14. Changes to the GMCP require parties to be given notice and 20 working days to provide a response to Council on the proposed change(s). Parties who disagree with the proposed change shall provide a report detailing the reasons for the disagreement to Council within 30 working days of being notified of the proposed change(s). The Director-General of Conservation is explicitly included as a party to this process.

15. To avoid conflation of the existing MWWUG consents with the management of any proposed consents (if granted), Council suggests that the existing MWWUG GMCP remain as it currently exists and that a separate GMCP may be prepared for those Middle group takes. This separate GMCP could utilise the trigger levels developed for the MWWUG GMCP and include the additional monitoring requirements suggested by Mr Hughes. It would also need to make reference to the prioritisation of the existing MWWUG consents in accordance with the first in, first served approach to water allocation under the RMA, to address the issue of non-derogation from existing authorised water permits. The two GMCPs could be combined at a later date through the mechanism provided for changes to the MWWUG GMCP.

Proposed Regional Plan for Northland

16. The Commissioners raised questions about the development of the allocation limits for the Aupōuri Aquifer FMU and the absence of a definition of an “efficient bore take” in the pRPN. Council has indicated that the only submission received on the proposed allocation limits for the Aupōuri Aquifer FMU sought to increase the allocations within each of the sub-zones to 35 percent of recharge rather than the lower amounts set by the Lincoln Agritech report on allocation. This submission was accepted as part of the hearings process for the pRPN and the final decisions version included increased allocations in those sub-zones.
17. In regard to the definition of an “efficient bore take” this was only included in an Explanation note for Policy 10.5.1 “Sustainable Use and Development” in the Regional Water and Soil Plan. The development of the pRPN streamlined the policies so that they covered only relevant matters. The removal of this explanation note was a casualty of this process.

Amendments to proposed draft conditions and GMCPs

18. Throughout the exercise of the MWWUG consents, and particularly in relation to the initiation of the SIMPR process, there has been discussion between Council and the consent holders about the definition of a “full irrigation season:” and thus what constitutes Stage 1. To clarify this for these applications (if granted), Council suggests that Stage 1 be specified as follows:

Stage 1: Trigger levels have been set and irrigation has occurred for one full irrigation season.

19. Council also suggests a definition of “full irrigation season” is added to the proposed draft GMCPs to remove ambiguity, as follows:

Irrigation occurs over the entire period of a water year, being 1 July to 30 June, when irrigation is required, or the full allocation for a stage is irrigated during a water year.

Annexure A: Map of monitored lakes

