

## Recommended decisions on submissions on Proposed Plan Change 2 to the Regional Freshwater Plan (the Mangatarere Stream)

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### Summary of decisions requested by submitters and recommendations on decisions requested

Submitter	Decision requested by submitter	Recommendation
Department of Conservation	That the proposed plan change be declined	Approve in part
Carterton District Council	<p>That the relevant restriction not be applied to the Carrington water race system take.</p> <p><i>Supported in Further Submissions by Wairarapa Federated Farmers</i></p> <p><i>Opposed in Further Submissions by the Director-General of Conservation</i></p>	Approve in part
Wellington Fish & Game Council	<p>That core allocation in the upper reach is set to no more than 50% of the 1 in 10 year low flow</p> <p><i>Supported in Further Submissions by the Director-General of Conservation</i></p>	Approve in part
Enaki Investments	<p>Remove the four tributary streams from the provisions of the proposed changes to Table 6.1 of the Regional Freshwater Plan for the Wellington Region</p> <p><i>Supported in Further Submissions by Wairarapa Federated Farmers</i></p> <p><i>Opposed in Further Submissions by the Director-General of Conservation</i></p>	Approve in part

## **Introduction**

Proposed Plan Change 2 to the Regional Freshwater Plan establishes minimum flows and allocation limits for the Mangatarere Stream and its tributaries. Greater Wellington staff and three submitters attended a hearing of submissions on 27 February 2006. Prior to the hearing, Greater Wellington staff had circulated their recommendations on submissions to all submitters.

At the hearing, Greater Wellington gave a “Powerpoint” presentation and provided the Hearing Committee with written material on the proposed plan change and the reasons for their recommendations in response to submissions. Two submitters, the Department of Conservation and the Wellington Fish and Game Council, made a joint presentation at the hearing that included written material. We refer to them as the “joint submitters” in this decision. The Carterton District Council also attended the hearing and spoke to their submission. Two other submitters, Enaki Investments and Federated Farmers did not attend the hearing. The submission by Federated Farmers was a further submission only.

In the preparation of this decision, we have considered the material provided by the Wellington Fish and Game Council and Department of Conservation together, because it was presented to us as a joint submission at the hearing.

After we heard the submissions, we asked Greater Wellington staff to meet with the submitters and provide us with a summary of agreement and differences between the parties. This meeting occurred immediately following the hearing (Carterton District Council did not attend). After we were provided with the summary, we issued an interim decision on 31 March 2006 for submitters to comment on that included the summary. All submitters who attended the hearing commented on the interim decision.

Our recommendations on submissions and the reasons for them are given below.

## **The joint submitters**

### **Minimum flows and location for the upper reach of the Mangatarere Stream**

Greater Wellington staff have applied a habitat method (RHYHABSim) to arrive at their recommended minimum flow of 125 litres per second at the Belvedere Road bridge. The joint submission is critical of Greater Wellington’s use of a flow guideline that retains two thirds of habitat in the Mangatarere Stream at the mean annual low flow. In its place, the joint submission seeks a minimum flow of the seven day mean annual low flow.

We accept some of the limitations raised in the joint submission about application of the flow guideline and the methodology used to implement the guideline. However, our preference is to base minimum flows in the Mangatarere Stream on an approach that has previous use in regional planning. We also consider that a habitat approach is more in keeping with the Resource Management Act 1991 than relying on an historical flow.

With the information that we have been provided, we don't think the selection of either method is critical at this time. We consider that it is appropriate to weigh up both approaches in coming to a decision on minimum flows. Moreover, we think the selection of the location where the minimum flow is set is more important at the present time.

Greater Wellington staff favour Belvedere Road bridge as the location where a minimum flow is set. Their preference for this site, rather than the Gorge, is that Belvedere Road bridge would provide for a more "effects based approach". They recommend a flow at the Belvedere Road bridge site of 125 litres per second using the guideline and habitat method mentioned above. However, Greater Wellington staff acknowledge that there are uncertainties associated with flow data from the Belvedere Road bridge site.

The joint submitters seek a flow at Belvedere Road bridge of 250 litres per second – their estimated seven day mean annual low flow at the site. The joint submitters also acknowledge limitations in the hydrological data for arriving at a flow for this site.

The joint submitters prefer the Gorge site as the location where a minimum flow should be set. We think that the minimum flow should be set at the Gorge. Our main reason is that the Gorge site is the location where there is no disagreement about interpretation of the flow data.

The seven day mean annual low flow at the Gorge is 200 litres per second. The evidence of Ms McArthur from the Wellington Fish and Game Council seeks this as the minimum flow (paragraph 46 of her evidence). Mr Scarf, giving evidence for the Wellington Fish and Game Council and the Department of Conservation, seeks 270 litres per second as the minimum based on a two step regime for cutting back takes. The joint submitter's view is that, under natural flow conditions, a flow of 200 litres per second at the Gorge will result in a flow of 250 litres per second at the Belvedere Road bridge, which is the flow that the joint submitters are seeking at the Belvedere Road bridge site.

We have asked Greater Wellington staff for the flow they consider would be needed to achieve their preferred flow of 125 litres per second at Belvedere Road bridge. They consider that a flow of 240 litres per second would be required at the Gorge.

We note that the different hydrological interpretations we are receiving from Greater Wellington staff and the joint submitters are the reasons why each seek very different flows at Belvedere Road bridge. The joint submitters propose that natural flows increase between the Gorge and Belvedere Road bridge in the same proportion at all flows. Greater Wellington staff consider that, while this may be true during quickflows, the reverse happens at baseflows. At times of low flows, losses to groundwater mean that flows in the Mangatarere Stream at Belvedere Road bridge are less than at the Gorge.

By setting the flow at the Gorge, we are satisfied that we don't have to decide this issue of flow gain vs flow loss now. It is why we said earlier in this decision that it is the selection of the minimum flow location that is most important at this time. A flow of 240 litres per second at the Gorge will achieve flows at Belvedere Road bridge that each are seeking, according to the flow model that each is putting forward.

To inform decisions in the future, it's our view that monitoring of flows at Belvedere Road bridge should continue. We also believe that future resource consents should require water takes to be metered. Implementation of these suggestions will enable the current uncertainty about natural flow conditions in the Stream to be resolved. The minimum flow and its location can be adjusted, if necessary, when the Regional Freshwater Plan is reviewed in three years time.

### **Water allocation in the upper reach**

All parties agreed that the amount of water allocated should reduce as flows approach the minimum flow. For the upper reach, we propose a core allocation of 180 litres per second and that 50% of this amount is available when flows reach 330 litres per second.

In their comments on the interim decision, the Department of Conservation have suggested that a subscript be added to column 6 of Table 6.1 that reads: *"the first stepdown allocation means that each abstractor shall reduce their consented take by 50%"*. The plan is concerned about total allocation amounts rather than how much each abstractor is allocated. Allocation of water to each abstractor occurs during the resource consent process. In this instance, all resource consents will be processed at the same time, when the plan change becomes operative.

### **The Carrington water race.**

The joint submission considered the Carrington water race should be subject to the same step down provisions as other water takes.

Greater Wellington staff recommended to the Hearing Committee that the Carrington water race be subject to the same step down provisions as other water takes with the exception that water required for people's reasonable domestic needs and the reasonable needs of their animals should be considered when resource consent applications are made to take water for the water race.

Our interim decision was based on advice from staff that the taking of water for an individual's domestic use and stock is treated differently in section 14 of the Resource Management Act than other water takes. In response to the interim decision, the Department of Conservation comment as follows:

*" ... the Carrington water race does not comply with the exceptions outlined in s 14 of the Act. This section specifically refers to an individual's domestic needs or the reasonable needs of an individual's animals for drinking water. The Carrington water race provides not only for stock and domestic supply but also for irrigation use, it is a communal use for a rural community."*

The Department suggest an amended subscript \*\*\* in table 6.1 that gives priority to public water supply, including water supply takes from the Kaipatangata Stream and takes from the Carrington water race that supply water for people's reasonable domestic needs and the reasonable needs of people's animals.

We note that Policy 6.2.5 of the Regional Freshwater Plan gives priority over other users to the abstraction of water for the public health needs of people. This policy has implications for the water supply take from the Kaipatangata Stream but it does not specifically address the matters set out in s.14. An individual's reasonable domestic needs and the reasonable needs of an individual's animals for drinking water are already addressed in the Resource Management Act, itself.

We consider that there should be opportunity to continue to take water from the Carrington water race for people's reasonable domestic needs and the reasonable needs of their stock. The approach we have taken is that water takes for the Carrington water race will cease when a minimum flow of 240 litres per second is reached at the Gorge. However, the cessation of takes may not apply to water taken by the Carrington water race for people's reasonable domestic needs and the reasonable needs of people's animals for drinking water. The taking of water for these purposes can be considered when a resource consent application is made.

We are satisfied that the subscript \*\*\* in table 6.1 maintains internal consistency of policies within the plan and provides for our intended approach that is specific to the Carrington water race.

#### **Minimum flows and water allocation in the lower reach.**

At the hearing, the joint submission requested that the seven day mean annual low flow should apply as the minimum flow in the lower reaches until further data can be collected. The recommendation of staff for the minimum flow in the lower reach is 90 litres per second at Belvedere Road bridge.

There is agreement that the Mangatarere Stream gains flow in its lower reaches (due to tributary inflow, flow from the Carrington water race, and groundwater recharge). There is also agreement that there are limitations on the hydrological data available for the lower reach.

In the interim decision, we proposed a minimum flow for the lower reach of 200 litres per second at the Gorge, rather than setting a flow at Belvedere Road bridge. A minimum flow of 200 litres per second is the seven day mean annual low flow at the Gorge.

In response to the interim decision, the Department of Conservation and the Wellington Fish and Game Council seek a minimum flow at the Gorge for the lower reach of 240 litres per second. At the hearing, the joint submitters relied on evidence from Mr Frank Scarf as an expert witness. In their response to the interim decision, the Department of Conservation confirm that *'Frank Scarf advises that a flow of 200 l/s at the Gorge would result in flows at SH2 being reduced to 580 l/s which is closer to the 1:5 yr low flow and not the Mean Annual Low Flow'*.

Paragraph 19 of Mr Scarf's evidence provides flow statistics for the Mangatarere Stream at SH2. Paragraph 30 of his evidence identifies the one in five day low flow for this site as 570 litres per second. In his evidence at paragraph 32, Mr Scarf told us *"While I concede there is no common approach to the setting of minimum flows for water management purposes, I do believe it to be good practice that any minimum flow established should not be at less than a 1:5 yr LF (5d)."*

We are, therefore, satisfied that a minimum flow for the lower reach of 200 litres per second at the Gorge is appropriate in the circumstances.

We also considered how water taken in the lower reach might affect the Mangatarere Stream at low flows. Only 40 litres per second is abstracted from the river in the lower reach by resource consents. Between flows of 270 and 200 litres per second at the Gorge this amount would be reduced to 20 litres per second as a result of the first stepdown in Table 6.1.

The Department of Conservation also seek an addition to method 8.5.5 that refers to *"installation of a flow recorder at the State Highway 2 Bridge to collect data to review minimum flow provisions and allocations for the lower reach of the Mangatarere."*

To inform decisions in the future, we agree there should be additional monitoring of flows at SH2. However, we don't believe the Regional Freshwater Plan is the appropriate place to set out monitoring locations and programmes for river flows in an ad hoc way (there is no such provision for other monitoring locations). Just as we have identified the need for further flow monitoring at Belvedere Road Bridge and SH2, Greater Wellington needs to be able to relocate monitoring resources in other locations from time to time. This is why we have a Regional Monitoring Strategy and separate regional monitoring programmes for different resources in compliance with section 35 of the Resource Management Act.

All parties are agreed that the amount of water allocated should reduce as flows approach the minimum flow. For the lower reach, we propose a core allocation of 140 litres per second and that 50% of this amount is available when flows reach 270 litres per second at the Gorge. As mentioned above, only 40 litres per second of the core allocation is likely to come from the lower reach of the Mangatarere Stream.

### **Minimum flows and allocation in the tributaries**

The joint submitters consider that water takes from the tributaries should cease when flows reach the seven day mean annual low flow. Greater Wellington staff have recommended that takes should cease in the tributaries when flows in the Mangatarere Stream are at the recommended minimum for the lower reach of 90 litres per second. Staff also recommended that, in addition to the proposed minimum flows, any water taken from the tributaries should not exceed 30% of the water in any tributary at the location of the take under natural flow conditions.

Of the tributaries, the Kaipatangata Stream is identified in the Regional Freshwater Plan as important for trout habitat (based on information provided at the time by the Wellington Fish and Game Council). No more water could be allocated from this stream because the Carterton water supply take already exceeds the 30% threshold. This leaves Beef Creek, the Enaki Stream and its tributary, Hinau Stream, as the other tributaries likely to be affected.

In the interim decision, we considered that the minimum flow for the tributaries should be set using the same flow as for the lower Mangatarere Stream of 200 litres per second at the Gorge. This flow is the seven day mean annual low flow at the Gorge, which is the flow statistic that the joint submitters are seeking as the minimum flow for the tributaries. We recognise that mean annual low flows may not be occurring in all the tributaries at the same time as the Mangatarere Stream itself. However, it is a practical approach that will enable Greater Wellington to measure flows at gauging stations that it controls, provide information to abstractors on when takes should cease or reduce, and ensure that enforcement can occur.

In its response to the interim decision the Department of Conservation reinforced their submission as follows:

*“The principle that the department sought was that the minimum flow at the point of the take in the tributaries should be the naturalised Mean Annual Low Flow (7 day) and that takes should cease when this minimum is reached. The statistic will be different for each tributary and clearly be a much lower figure than the MALF (7 day) for the main stem.”*

The Wellington Fish and Game Council commented: *“we would support as allocation limit of 30% of the MALF (7d) at the site of abstraction in the tributaries as long as abstraction was to cease at MALF (7d) at the point of take.”*

We don't think it is practical to have a minimum flow at every point of take. Greater Wellington will be responsible for enforcing resource consents that result from the plan provisions. We will need to ensure that data is accurate and can be conveyed clearly and quickly to consent holders, so that they can act. Flow gauging stations must be continually calibrated and upgraded to ensure they are accurate. To ensure plan provisions can be implemented, we need to be responsible for all flow gauging stations that are mentioned in resource consents. It would be prohibitively costly to maintain accurate flow gauging stations at every point of take in the tributaries and for us to monitor them all.

## **Carterton District Council**

The Carterton District Council has requested that the Carrington water race not be included in the upper reach minimum flow restrictions. The Department of Conservation made a further submission on Carterton District Council's submission. We have also discussed our response to their further submission under the heading “The joint submitters”.

The Carterton District Council maintains that the proposed minimum flow for the upper reach will restrict farmers totally dependant on the water race to supply drinking water for their stock. The Carterton District Council also states that the water race has a water ecology of its own.

Our interim decision was that the Carrington water race be subject to the same step down provisions as other water takes with the exception that water required for people's reasonable domestic needs and the reasonable needs of their animals should be considered when resource consent applications are made to take water for the water race.

Our interim decision was based on advice from staff that the taking of water for an individual's domestic use and stock is treated differently in section 14 of the Resource Management Act 1991 (RMA) than other water takes.

We are also aware that information about the amount of water taken from the Carrington water race for people's reasonable domestic needs and the reasonable needs of stock is not known. This information was not collected during the preparation of the *Water Allocation Plan for the Mangatarere Catchment*. It would need to be provided as part of any resource consent application to take water for the Carrington water race when the environmental effects will have to be assessed.

In their response to the interim decision, the Department of Conservation have advised us that *"the Carrington water race does not comply with the exceptions as outlined in s 14 of the Act"*

Whether or not section 14 of the Resource Management Act identifies that water can be taken by the Carrington water race for reasonable domestic or stock use as a priority, our view is that people should be able to continue taking water for these purposes.

We have noted the comments from Carterton District Council in response to our interim decision. The Carterton District Council suggest that the interim decision be accepted and implementation be placed on hold until such time as further work on the Carrington water race is carried out. The decision on flows and water allocation for the Mangatarere Stream will be implemented when resource consent applications to take water are processed.

It is recommended that Table 6.1 be amended as identified in the interim decision. The cessation of water takes in the upper reach when flows at the Gorge reduce to 240 litres per second should not apply to water taken by the Carrington water race for people's reasonable domestic needs and the reasonable needs of people's animals for drinking water. Taking water for these purposes will need to be considered when resource consent applications are made to take water for the Carrington water race.



## Enaki Investments

Enaki Investments have requested that the four tributaries (Enaki Stream, Hinau Stream, Kaipatanga Stream, and Beef Creek) be removed from Proposed Plan Change 2.

The Department of Conservation made a further submission on Enaki Investments submission and we have also discussed issues relating to minimum flows in the tributaries under the heading “The joint submitters”.

Our decision in response to Enaki Investments submission adopts the recommendations of Greater Wellington staff except that the minimum flows in the tributaries and lower reach are now triggered by minimum flows at the Gorge rather than Belvedere Road bridge.

Proposed Plan Change 2 and the *Water Allocation Plan for the Mangatarere Catchment* divide the Mangatarere catchment into two parts: from the headwaters to the Belvedere Road bridge (the upper reach) and from the Belvedere Road bridge to the confluence with the Waiohine River (the lower reach). The *Water Allocation Plan for the Mangatarere Catchment* is the report by Greater Wellington that this plan change is based on.

The approach taken in the *Water Allocation Plan for the Mangatarere Catchment* is to include the allocation of water from the four tributaries (Enaki Stream, Hinau Stream, Kaipatanga Stream, and Beef Creek) with allocation from the upper reach, even though these tributaries flow into the Mangatarere Stream in the lower reach. This was because the available information indicated that these tributaries exhibited similar flow characteristics to the upper reach.

Proposed Plan Change 2 does not specifically refer to the named tributaries. However, consistent with the *Water Allocation Plan for the Mangatarere Catchment*, the allocation of water from the tributaries is included in the total amount of water allocated from the upper reach of the Mangatarere Stream. It is appropriate that Proposed Plan Change 2 address allocation from the tributaries explicitly.

Enaki Investments maintain that the *Water Allocation Plan for the Mangatarere Catchment* does not provide supporting information on the hydrology or ecology of the four tributaries to support the assertion that they should form part of the upper reach. In response to these concerns, it was agreed with submitters at the first of two pre-hearing meetings that further hydrological data would be gathered to test whether including the tributaries with the upper reach of the Mangatarere Stream could be justified.

Stream gaugings carried out over the 2004/05 summer did suggest some similarities in flow patterns between the tributaries and the upper reach of the Mangatarere Stream, but all submitters and Greater Wellington are satisfied that the allocation of water from the tributaries should be linked with allocation from the lower reach of the Mangatarere Stream.

Adverse effects of water taken from the tributaries occur in the tributaries themselves and in the lower reaches of the Mangatarere Stream. Therefore, allocation from the tributaries should be included with the amount of water that can be taken from the lower reaches of the Mangatarere Stream. The *Water Allocation Plan for the Mangatarere Catchment* indicates that 100 litres per second is currently taken from the tributaries. An adjustment needs to be made to Table 6.1 that adds 100 litres per second to the amount allocated from the lower reaches and tributaries and reduces the amount that can be allocated from the upper reach by 100 litres per second.

Having established allocation from the tributaries, minimum flows must also be identified. It is proposed that the minimum flows for the tributaries be set at 200 litres per second at the Gorge. At flows above 200 litres per second in the Mangatarere Stream at the Gorge, any water taken from the tributaries shall not exceed 30% of the mean annual low flow at the location of the take. This restriction would not apply to the taking of water for water supply from the Kaipatangata Stream. An applicant will have to demonstrate that their proposed water take will not be more than 30% of the water in any tributary at the location of the take under natural flow conditions.

Enaki Investments also maintain that the classification of existing ground water takes occurring within 50 metres of the Mangatarere Stream as surface water takes should in no way provide guidance to assessing new water permits for the taking of groundwater within the Mangatarere catchment. There is no guidance provided in the Regional Freshwater Plan for the Wellington Region on how the interaction between surface water flows and groundwater should be considered. The explanation to Policy 6.2.1 states:

*The water allocation plans also give guidance in relation to a variety of water resource issues, hence they are matters that should be referred to when applicants are applying for resource consents, or Council staff are assessing resource consent applications.*

Section 104 of the Act states the matters to be considered when decisions are made on resource consents. It includes:

- (i) *Any other matters the consent authority considers relevant to and reasonably necessary to determine the application.*

The status of the *Water Allocation Plan for the Mangatarere Catchment* is probably no more or less than the Resource Management Act 1991 provides for when it allows for other matters to be considered in Section 104.

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## **Recommended plan changes**

Recommended plan changes in response to submitters are shown in Attachment 1.

The recommended amendments to Table 6.1 in Attachment 1 are shown as struck out and underlined text.

Margaret Shields

Chairperson, Hearing Committee for Plan Change 2 to the Regional Freshwater Plan

Attachment 1  
Suggested amendments to Table 6.1 (shown in struck out and underlined text)

Column 1	Column 2	Column 3 Policy 6.2.1(1)	Column 4 Policy 6.2.1(2)	Column 5 Policy 6.2.1(3)	Column 6 Policy 6.2.1(4)		Column 7 Policy 6.2.1(4)	
Part of the <b>river/ stream</b> within which allocations in columns 4, 5 6 & 7 apply	The <b>location of recorders</b> where flows in columns 3, 5, 6 & 7 are measured	<b>Minimum Flow</b> (litres/second)	<b>Core Allocation</b> (litres/second)	Flow required for <b>supplementary allocation</b> (litres/second)	Flow below which <b>first stepdown</b> allocation takes effect (litres/second)	<b>First stepdown</b> allocation (litres/second)	Flow below which <b>second stepdown</b> allocation takes effect (litres/second)	<b>Second stepdown</b> allocation (litres/second)
<b>Mangatarere Stream</b> from the headwaters to the Belvedere Road bridge, <u>including any tributaries</u>	<del>Belvedere Road bridge</del> <u>The Gorge</u>	<del>125</del> <u>240</u>	<del>280</del> <u>180</u>	1200**	<del>160</del> <u>330</u>	<del>140</del> <u>90</u>	<del>125</del> <u>240</u>	<del>0</del> <u>***</u>
<b>Mangatarere Stream</b> from the Belvedere Road Bridge to the confluence with the Waiohine River, <u>including any tributaries</u>	<del>Belvedere Road bridge</del> <u>The Gorge</u>	<del>90</del> <u>200</u>	<del>40-140</del> <u>****</u>	1200	<del>125</del> <u>270</u>	<del>20</del> <u>70</u>	<del>90</del> <u>200</u>	0

\*\* the flow required for supplementary allocation for the Mangatarere Stream refers to the flow measured at the Mangatarere Gorge Environmental monitoring site, ~~not the Belvedere Road bridge site~~

\*\*\* The second stepdown allocation of “0” for the Mangatarere River and its tributaries from the headwaters to the Belvedere Rd bridge will not apply to the taking of water for the Carrington water race for people’s reasonable domestic needs and the reasonable needs of people’s animals for drinking water. The taking of water for these purposes can be considered when a resource consent application is made for the Carrington water race.

\*\*\*\* The following additional restrictions shall apply to taking water from the tributaries. At flows above 200 litres/second in the Mangatarere Stream at the Gorge, any water taken shall not exceed 30% of the mean annual low flow at the location of the take. The mean annual low flow refers to natural flow conditions at the location of any water take. These additional restrictions shall not apply to the taking of water by any statutory authority which has a duty for public water supply under any act of Parliament or regulation.