





## 1. Introduction

Pursuant to Section 88 of the Resource Management Act 1991 (the Act) JV and LA Petrie (the applicant) applied for resource consent to Greater Wellington Regional Council.

The applicant requires consent from Greater Wellington for a discretionary activity at a single location under the Regional Freshwater Plan for the Wellington Region (RFP)

The application that was lodged and subsequently notified sought consent for the abstraction of groundwater.

The application was heard by a Hearing Committee listed on the cover sheet of this decision document. The Committee has delegated authority from Greater Wellington to hear and make a decision on the application.

The hearing was held on 23 October 2009 concluding with the applicants' right of reply, following which the Committee determined that it had sufficient information to make a decision and subsequently closed the hearing

In addition to the evidence provided at the hearing and oral submissions, full copies of all submissions lodged in regard to the application were available to the Committee.

The decision to **decline** this consent application, as outlined in the following decision document is the unanimous decision of the Committee.

## 2. The proposal

### 2.1 Overview of the Proposal

The proposal is to abstract groundwater from bore S27/0846 at a rate up to 20 litres/second, (1728m<sup>3</sup>/day), for up to 150 days per year (259,200m<sup>3</sup>/year) to irrigate up to 40 hectares of pasture/crops. The applicant submitted an "Assessment of Environmental Effects" (AEE) to support the resource consent application.

### 2.2 Site description

The abstraction is proposed from a bore (Well No. S27/0846) situated at the base of Te Maire Ridge (an uplifted block of basement greywacke) on the floodplain of the Ruamahanga River, about 2km from the present day channel.

The geographical boundaries of each groundwater zone in the Wellington Region are presented in Appendix 9 of the RFP, with the Wairarapa zones shown in Figure 9.4 of Appendix 9. The bore is located within the Tawaha Groundwater Zone as so defined.

Bore S27/0846 is screened between depths of 7 and 16 metres which is within the range of the aquifer noted in Table 6.5 of the RFP.

The surrounding land, including the applicants' property, is primarily used for agriculture.

### **2.3 Section 14 of the Resource Management Act 1991**

The Committee concurs with the officer's report in that the following resource consent is required under section 14 of the Act and rule 16 of the RFP:

**WAR080367 [26775]:** Water permit: permit to take and use groundwater from an existing bore (Wells No. S27/0846) for irrigation purposes.

## **3. Notification and submissions**

### **3.1 Public notification of the application**

As outlined in the Officer's report, based on the application information and the further information lodged by the applicant, the officer considered the effects of the application proposal to be potentially more than minor.

Based on this information, the application was publicly notified in the Wairarapa News on 15 April 2009, a sign was installed at the site and 21 affected/interested parties were individually notified including:

- Adjacent/potentially affected land owners
- Rangitane o Wairarapa
- Kahungunu ki Wairarapa
- South Wairarapa District Council.

### **3.2 Submissions received**

In response to public notification, four submissions were made, two in opposition and two neutral. A summary of each submission was attached to the officer's report.

#### **3.2.1 Issues raised in submissions**

The main concerns of the submitters were:

- Cumulative effects on fully allocated aquifer.
- Long-term cumulative effects on bores.
- Potential impact on current users.
- Pump testing period was short – a longer testing period (say one irrigation season) may be required to assess impacts of long-term pumping on other bore users.
- Concerned that no testing completed during irrigation season and effects on other users are uncertain.

- Reduce the rate of take / duration if interference drawdown adversely affects other bore users.
- The most recently consented takes should be the first to be restricted. This sequence should be progressively implemented until all consented takes within the groundwater zone are restricted or their groundwater takes suspended (i.e. a last on first off basis).
- Freshwater Plan is up for review.
- The new groundwater model presently being developed will give better information in the area in the future.

The Committee accepts this as an accurate summation of issues raised in the submissions.

#### **4. Officer's report and pre-circulation of evidence**

In accordance with section 42A of the Act, a report on the application was compiled by the reporting officer, Mr Grant Kneebone. This included a technical appraisal of the applicants AEE by Dr Mark Gyopari. The officer's report was distributed to the applicant and their representatives on 1 October 2009.

The officer's recommendation was that the application be declined.

The applicant was asked to provide the evidence they intended to present at the hearing in response to this report. This was provided and comprised a statement by the applicant, John Petrie and a statement by Greg Butcher, the applicants' hydrological consultant. This material was circulated together with the officer's report to the Committee and submitters on 13 October 2009.

#### **5. The hearing**

##### **5.1 Summary of proceedings**

The hearing was convened on 23 October 2009. Following on from introductions by the Chair, the reporting officer, Mr Kneebone, gave a factual summary and overview of the application. He stated that he had received a copy of the statements of evidence from the applicant circulated prior to the hearing. After reviewing these statements he was satisfied to uphold his recommendation that the application be declined.

The applicant then presented their case, with the assistance of representatives. This was followed by an oral submission from Mr Jim Hedley, the only submitter in attendance.

Officers from Greater Wellington were then given the opportunity to respond to the matters raised in the hearing and to answer questions from the Committee. This was followed by the applicants' right of reply.

The hearing was then called to a close by the Chair.

## **5.2 Summary of Evidence heard**

### **5.2.1 Applicants' case**

Presentations were made by the following witnesses on behalf of the applicant:

- Hugh Rennie QC– Legal counsel for the applicant
- John Petrie – Applicant
- Greg Butcher – Hydrologist.

#### **(a) Mr Rennie's evidence**

Mr Rennie presented the applicants' opening and legal submissions. He outlined the applicants' position on the application. The key contention of the applicants' case is that the application is for an allocation of groundwater from the Pukeo aquifer and not from the Tawaha aquifer. The applicant accepts that the bore is located in the area mapped in the RFP as the Tawaha Zone which is fully allocated. The applicant contends that the shallow aquifer accessed by the bore is part of the Pukeo system (refer to Mr Butcher's evidence) where there is unallocated water which is in excess of the quantity sought by the applicant. The applicant claims that the connection between the Tawaha and Pukeo aquifers as proposed by the officer's report is unimportant and contends that Mr Butcher's evidence shows that the shallow aquifer accessed by the bore is above the main Pukeo aquifer.

The applicant rebuts the officer's report inference that the Pukeo aquifer is under stress and claims there is no evidence to support a precautionary approach. This is because information is not incomplete or limited and case law indicates a requirement for likely serious and irreversible damage whereas aquifer recharge means any adverse effects would be reversible and there is no evidence to support serious effects.

The applicant believes that a deferral due to the Council's impending review of the RFP is not required and refers to case law to show no legal basis for deferral. Furthermore it believes that declining the application would result in a downwards revision of allocatable water since no other applicant should be granted access to this resource.

The applicant agrees that it is common ground that Part II sections 7(b) and 7(g) are relevant but contends that the applicants' use of the water to increase productive land use as per 7(b) should be assessed together with 7(g) and in the context of section 5(2) and that this renders the effect neutral in relation to section 7(g).

Mr Rennie concluded by calling for draft conditions and that in their absence if a decision in principle was made to grant consent, time would need to be reserved to agree consent conditions. At the request of the chair, the reporting

officer provided a copy of conditions from the recent Benton groundwater consent which could be used as the basis for conditions in this case.

(b) Mr Petrie's evidence

Mr Petrie described his and his wife Lucy's farming operation at Te Kopura. He stated that the land on the river flats was particularly fertile and suited for cropping (horticulture). However this is difficult without a secure supply of irrigation water. They are participating in a seed trial on this land and are having to tanker in water to complete this trial which is wasteful and costly compared to on-site irrigation.

He acknowledged they had not progressed the issue of a water permit in 2003 following an initial discussion with Greater Wellington as they understood the property was within the fully allocated Tawaha zone. After taking expert advice they drilled a bore in 2007 targeting the Pukeo aquifer and believe that water testing confirms the bore accesses the "Pukeo zone". Mr Petrie described how he requested a pre-hearing meeting and was prepared to accept a short term consent in order to carry out longer term monitoring and testing.

(c) Mr Butcher's evidence

Mr Butcher discussed the hydrogeological background of the proposal and spoke principally to the evidence that had been pre-circulated to all parties. The applicants' bore accesses a shallow sandy gravel aquifer between the depths of 3.5m and 16m and is screened between 7m and 16m. At this location the aquifer is overlain by 3.5m of silt and underlain by 2.1m of firm clay. Pump testing of the bore was conducted over a 3 day period at 25 litres/second. Water levels were monitored in the applicants' and four observation bores. Two of these were located close by in the same shallow aquifer whilst the other two were deeper (23m -30m) and over 2km distant. Interference drawdown was only observed in the nearby shallow bores (0.74m and 0.5m).

Mr Butcher carried out work for Greater Wellington when boundaries for the groundwater zones for the RFP were drawn up. This showed that an early conceptualisation had the applicants' bore located in a zone labelled 'Ruamahanga River Flats downstream of Martinborough' later relabelled "Tawaha". Further work prepared by Mr Butcher resulted in a redefinition of the boundary between Tawaha and the Lower Valley zone with the southern Pukeo basin being assigned to the Lower Valley zone. This boundary was incorporated into the RFP as proposed in 1997 which became the operative plan in 1999. Mr Butcher states this redrawing of the boundary was based on the fact that the identified aquifers in the southern portion of the Pukeo basin displayed hydrogeological and water quality properties similar to those of the central Lower Valley zone as opposed to the Tawaha zone.

Mr Butcher claims that Lower Valley zone aquifers are influenced by the presence of marine sediments which are absent from the Tawaha zone. Lower Valley groundwater is typically older than Tawaha groundwater which is closely linked to the Ruamahanga River and is largely river recharged. The influence of the river is less significant in Lower Valley zone.

In support of Mr Butcher's contention that the shallow aquifer accessed by the Petrie bore is a Lower Valley aquifer and not a Tawaha aquifer, Mr Butcher presented a cross section slice joining a number of bore logs including the applicants' bore from the Riverside Zone, through the Tawaha Zone, down to the Lower Valley Zone. Mr Butcher contends there is a discontinuity between the bores on either side of the Petrie bore. From this slice Mr Butcher concludes that the shallow aquifer accessed by his client's bore continues into the Lower Valley but not into the Tawaha or Riverside zones. He suggests it has the same downward incline as the main aquifer (Q2-Q4) identified in Tawaha.

To further support the contention that this aquifer is a Lower Valley aquifer Mr Butcher claims the lack of response to river levels and the water chemistry of the Petrie bore are more like Lower Valley aquifer data than Tawaha aquifer data.

Mr Butcher also suggests this aquifer has no safe yield or allocation limit. In the absence of a safe yield and accepting a possible interconnection between the screened aquifer and underlying Lower Valley Aquifer 2 then the take should be considered as being from Lower Valley Aquifer 2 for which allocation still remains. The proposed take will not increase the allocation to the safe yield limit and would be less than 1% of the aquifer allocation.

Mr Butcher suggests that there would not be a problem with reducing groundwater levels (Ness monitoring site questionable) and likely that this is just a feature of reduced rainfall recharge in recent years. However the applicant would accept a condition to continuously monitor groundwater levels and would accept restriction if monitoring data indicated a long term decline in groundwater levels.

### 5.2.2 Submitter

Following the presentations from the applicants' witnesses and associated questioning, Mr Hedley, the only submitter attending the hearing, was invited to speak in support of his submission. An oral submission was heard from Mr Jim Hedley.

Mr Hedley (Caldwell Trust) farms and abstracts water for stock and irrigation purposes in the Tawaha groundwater zone area. He opposes the application on the grounds that the water is not available in the Tawaha zone and if consent were granted it could have affects on his farm and other users in the Tawaha area. Mr Hedley acknowledged that he was no technical expert but brought some on-the-ground observations to the hearing. He was concerned that Scott Simmonds bore had not been monitored as part of the pump test as it was close to the Petrie bore and located in Tawaha. He recounted how bores close to Borlase are very close to the river and overflow during flood conditions. This demonstrates a very close connection with the river. His own bores however do not show the same connection. Following the prehearing meeting held on this case, Mr Hedley had taken upon himself to monitor his own bore levels and he reported to the hearing that he found no correlation between river

flows and water levels in his irrigation bore which is 20m deep. His cowshed bore which is much shallower (20 feet about 6m) has run dry in the past two years and has not been recharged by river levels.

Mr Hedley suggested that if the Committee did grant a consent that they might consider implementing it in a similar fashion to the Benton case and issue it for a term of about three years for the purpose of a long term pump test. This could then provide a more robust assessment of interference with other bores in the vicinity and would not confer any water rights if effects were found.

### 5.3 Reporting officer response

Mr Kneebone did not add anything further to his initial comments at the commencement of the hearing. He introduced Dr Mark Gyopari and Mr Doug McAlister who provided technical evidence to assist with the assessment of the application.

Dr Gyopari, hydrogeological expert, provided the bulk of the technical response as he authored the technical review of the application, with Mr McAlister, (Senior Groundwater Scientist, Greater Wellington) providing a briefing on aquifer water chemistry in the region talking to the slide showing the results of the statistical cluster analysis performed on Wairarapa Valley hydrochemistry data presented in section 4.4 of Dr Gyopari's Technical Review attached to the officer's report circulated before the hearing.

Dr Gyopari's presentation revolved around a number of PowerPoint slides which are attached to this decision document and listed below. These slides helped to summarise the information contained in the officer's report and Dr Gyopari's technical review. The relevant sections of the officer reports relating to the main points are listed.

|         |  |   |
|---------|--|---|
| Slide 1 | Location Map   | Figure 1, Technical Review – shows location of zones, Petrie test observation bores, GW monitoring bores, section lines   |
| Slide 2 | Long -valley geological section and conceptual hydrology                           | Figure5: Technical Review   |
| Slide 3 | Measured groundwater flow pattern  | See 7.13 of officer's report, and section 5 of the Technical Review   |
| Slide 4 | Groundwater Level Monitoring   | Figure 6 Technical Review officer's report 7.4  |
| Slide 5 | Calculated annual groundwater recharge using soil moisture balance model 1992-2008 | This graph of NIWA data responds to the climate argument presented by GB in his evidence and relates to discussion on recharge capability and usage of aquifers |

|         |  |                              |
|---------|--|------------------------------|
| Slide 6 | Daily Abstraction Trends (Tawaha-Pukeo)          | Officers report section 7.7  |
| Slide 7 | % Annual of Allocation Used (Tawaha/Pukeo)       | Officers report 7.5 – 7.7    |
| Slide 8 | Wairarapa Valley hydrochemistry cluster analysis | Technical report section 4.4 |
| Slide 9 | Pumping test data                                | Technical report section 5.  |

During the presentation, Mr Rennie expressed concerns that some of the information contained in the presentation appeared to be new and the applicant had not been given the opportunity to review this information. Dr Gyopari stated that whilst some of the slides were not presented in the technical review, clarification of some matters was required following the circulation of Mr Butcher’s evidence. Dr Gyopari explained that the information was not new as it has always been held by Greater Wellington and is available. The Committee agreed for the presentation to continue and that they would consider the matter further in deliberations.

Dr Gyopari explained that a regionally continuous aquifer system extends through the Ruamahanga Valley down towards Lake Wairarapa. The Tawaha groundwater zone represents a transition area between deeper evolved groundwater and younger fresher groundwater near the recharge area (rainfall and river infiltration). Groundwater chemistry evolves down-valley due to interaction with formation – increasing residence time. Aquifer permeability also tends to decrease down-valley. The applicants’ bore is situated within a shallower discontinuous aquifer but is regarded to be part of the main Q2-4 (Tawaha) aquifer system and hydraulically connected to it.

Mr McAlister explained that because the aquifer formation is very heterogeneous, water chemistry can vary considerably over short distances depending upon throughflow characteristics

Dr Gyopari claims there is no discontinuity in the aquifer system between the Tawaha and Lower Valley zones. Groundwater level data clearly defines a continuous flow system from the Tawaha zone into the Lower Valley zone (see slide 3) – providing a recharge source for deep confined Lower Valley aquifers.

Dr Gyopari highlighted that aquifers are at or near full allocation but only 30-40% of allocated volumes are being used. However groundwater level monitoring shows widespread significant seasonal increases in aquifer drawdown (1-2m) due to irrigation pumping. Also some wells show long-term declining trends. Dr Gyopari rebutted Mr Butcher’s evidence and claims that rainfall data shows that it is not necessarily below average rainfall which is causing groundwater level reductions. Above average rainfall in recent years has not translated into aquifer recovery in the vicinity of the applicants’ bore.

In short, Dr Gyopari claims there is no hydrogeological justification for considering the Petrie well to be within the Lower Valley groundwater zone, or that the zone boundary should be altered.

#### **5.4 Right of reply**

Mr Rennie, despite reservations about the scope of the Greater Wellington material presented to the hearing going beyond that circulated, agreed to proceed with the applicants' right of reply. He requested that the application be granted in principle and provision be made for agreeing consent conditions along the lines of the material presented.

In general he summed up the Greater Wellington response to his clients' case as a macro response with respect to the valley aquifers regardless of boundaries of management areas. The Greater Wellington current perspective is of one primary aquifer, Q2-Q4 which is continuous compared to the discontinuity proposed by Mr Butcher and drew the conclusion that this must indicate that the Tawaha/Lower Valley zone boundary had no hydrogeological significance and hence the applicants' bore accessed the same water as would be the case if it were drilled 1200m to the south where there is unallocated water available. As the application targets only 1% of the safe yield available in the Lower Valley zone then the application should not be denied on the basis of a precautionary approach. His client recognised the sensitivity of the issue and would be amenable to a short term consent with provision to cut back should any actual adverse effects emerge and asked that the application be granted.

#### **5.5 Hearing closure**

The Chair of the Committee then closed the hearing.

### **6. Statutory Provisions: Matters to be considered - Section 104**

The Committee considered any actual and potential effects on the environment, the Regional Policy Statement, the proposed regional Policy Statement and the operative Regional Freshwater Plan in making their determination as required by Section 104 of the Act; subsection (1). Further discussion of these issues is included in Sections 7-10 of this decision.

### **7. Principal issues in contention**

#### **7.1 Which aquifer is accessed by applicants' bore**

Both the applicant and the reporting officers agree that the applicants' bore is located in the Tawaha groundwater management zone as defined by the operative Regional Freshwater Plan. Mr Butcher's evidence attempted to show that the actual shallow aquifer accessed by the bore belongs in the Pukeo region of the Lower Valley groundwater management zone. Mr Butcher contended that the water chemistry among other characteristics of the

applicants' bore was more similar to bore water in the Lower Valley groundwater zone than the Tawaha groundwater zone.

The Committee were not convinced by the evidence presented by Mr Butcher. They found the interpretation of material on aquifer water chemistry presented by Mr McAlister most convincing. This demonstrated at a broader level the main water chemistry characteristics of the Wairarapa aquifers with the more evolved water tending to be found only in the mid to lower valley in contrast to the fresher water coming off the hills in the upper valley. They also found evidence presented by Dr Gyopari showing the through-flow of groundwater in the region of the applicants' bore and the long-valley geological section and conceptual hydrology more persuasive.

In addition the Committee found the evidence of Mr Hedley most instructive. His on- the-ground descriptions of the variability of bores in the Tawaha zone provided local knowledge and understanding.

Taking all the evidence presented, the Committee were satisfied with Dr Gyopari's assessment that there was no reason to redraw the boundary between the Tawaha and Lower Valley Zones and that the aquifer belongs to the Tawaha groundwater management zone.

## **7.2 Interpretation of Regional Freshwater Plan policy 6.2.3**

Mr Rennie highlighted in his opening statement the following from policy 6.2.3 of the RFP: "*Groundwater zone boundaries should be regarded as a guide and for any consent application, consideration needs to be given to the interaction of the groundwater zone at the location with adjacent groundwater zones and aquifer characteristics as a result of pump testing*". These words were introduced with plan change 3 to the RFP and form part of the explanation to the policy. The policy itself states that aquifers are to be managed in each groundwater zone using the safe yields shown in the tables and that discretion is to be maintained on aquifers not identified in the tables.

The Committee is satisfied that they have given due consideration to the interaction of aquifers in the location of the applicants' bore. In addition they note that the policy provides for discretion over unidentified aquifers. The policy clearly indicates that substantive evidence is required from pump testing to allocate a bore to a different groundwater zone. This was not provided in this case.

## **7.3 Water allocation and aquifer stress**

Table 6.5 under Policy 6.2.3 of the RFP presents aquifer allocation limits for the Wairarapa groundwater zones. This table identifies a safe yield of 11 million cubic metres per year for the Tawaha zone for an aquifer depth between 0 and 30 metres. This limit has already been allocated and so no allocation is available from this groundwater zone. The applicants' case that allocation is available rests on their contention that the bore is accessing an aquifer belonging to the Lower Valley zone.

Greater Wellington<sup>1</sup> provided evidence that not only is the Tawaha aquifer system under stress but so are the aquifers down gradient of Tawaha.

The Lower Valley groundwater zone is almost fully allocated at 98% of safe yield. Lower Valley is a large management zone which has separately identified safe yields for different aquifers. The main aquifers (2 and 3) in this zone are recharged from through-flow of groundwater as the aquifers are too deep to receive rainwater in the area. The officer report states that down-gradient of the applicants' bore there is a concentration of consented water takes from the Q2-Q4 or Pukeo 2 aquifer with a total allocation of 7.04 million cubic metres of groundwater per year. The through-flow for the "Te Hopai/Narrows/Pukeo/Dry River" subzone is estimated at 5 million cubic metres per year indicating that 141% of the through-flow to this sub-zone is allocated. This demonstrates that there is most likely considerable stress at this particular location even though the area as a whole still has 2% of safe yield available.

In addition the officer report and Dr Gyopari's presentation at the hearing show that in recent years a rapidly increasing percentage of allocated water is being accessed and groundwater levels appear to be reducing. Mr Butcher asserted that any reduced groundwater levels would be principally due to reduced rainfall recharge. The Committee concurs with Dr Gyopari's evidence which showed variable rainfall recharge between 1992 and 2008. This supports the view that a precautionary approach needs to be taken to preserve the resource for consented users.

#### 7.4 Consideration of issue raised regarding evidence

Issues raised by Mr Rennie regarding whether the evidence presented by Dr Gyopari was new evidence, or whether it was readily available information. The Committee on reviewing the material provided by all parties is satisfied that the information was readily available and not new. The evidence given by Dr Gyopari around this information simply provided further clarification of evidence already available.

## **8. Policies and objectives**

### **8.1 Regional Policy Statement for the Wellington Region**

As outlined in the Officer's Report there are a number of objectives and policies of the RPS that are relevant to these applications. The Committee has found policies 1, 2 and 3 relevant to its assessment of and decision on the applications.

In summary, the Committee considers that there are inconsistencies between the proposal (or a decision to grant this application) and policies of the RPS, particularly Policy 3 of the RPS and Policy 12b of the proposed RPS.

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<sup>1</sup> See section 7.5 of the officer's report and also Slides 1,3,

## 8.2 Regional Freshwater Plan for the Wellington Region

As with the objectives and policies of the RPS, a number of policies were identified in the evidence as being of relevance to these applications. The following are the RFP policies that the Committee has found particularly relevant:

**Policy 4.2.23:** To have regard for the benefits arising from any proposal....

Although granting of this proposal would provide the applicant with the benefit of increasing the productivity of his land, as discussed we do not consider that the water is available under the rules and policies of the RFP.

**Policy 4.2.26:** Precautionary approach where information is limited.

As discussed, there are areas of a lack of information surrounding the abstraction proposal including the precise extent of the accessed aquifer and its linkages to the surrounding aquifers and the effects that the abstraction may have. The Committee has weighed the potential long-term consequences of the proposal and in light of the information available to it, considers that it is necessary to exercise a high degree of caution. This is reflected in its decision to decline the application.

**Policy 4.2.29:** Recognition of needs of existing lawful users.

As discussed in section 7.3 of this decision document, the Committee has taken into consideration the applicants' existing investment but is satisfied that sufficient information was provided before the bore was drilled to indicate that obtaining a water permit would likely be declined. The Committee considers that in this instance that priority must be provided to existing permitted and consented users over new users and considers that the demand for water at this location is probably already greater than the resource can sustain.

**Policy 6.2.3:** To manage the aquifers in each groundwater zone in Tables 6.2-6.5 using the safe yield shown and to maintain discretion over the allocation of aquifers not identified in the Table.

The Committee consider that the proposal relates to an abstraction of groundwater from a shallow aquifer in the Tawaha groundwater management zone. Whilst the Committee acknowledges that the applicant highlighted the explanation to the policy which infers that boundaries were a guide, the Committee accepts the evidence of Dr Gyopari that data confirm that the aquifer accessed belongs to the Tawaha zone and has links to the main aquifer in this zone. It is a transition zone which provides through-flow of groundwater to the Lower Valley aquifers 2 and 3. The safe yield of 11 million cubic meters a year identified in this policy applies and is already allocated. As there is no allocation available for the proposal and in the light of evidence of aquifer stress in the Tawaha and Lower Valley aquifers, the Committee conclude that they must therefore decline the application.

## 9. Part 2 consideration

In considering this application, the Committee has had regard to those matters identified in Part 2 of the Act. In particular the Committee have had to consider whether the proposal achieves the purpose of the Act, which is to promote the sustainable management of natural and physical resources.

### 9.1 Section 6-8

The Committee is satisfied that there are no matters of particular relevance in Section 6 of the Act pertaining to this application.

Section 7 outlines other matters that all persons exercising the functions and powers of the Act shall have particular regard to in relation to managing the use, development, and protection of natural and physical resources. The Committee concurs with the Officer's Report in considering the following matters to be of relevance to these applications:

- (b) the efficiency, use, and development of natural and physical resources;
- (g) any finite characteristics of natural and physical resources;

In addition, the Committee believes the following subsection is also relevant

- (i) the effects of climate change.

The Committee had regard to these matters whilst making its assessment of the actual and potential environmental effects resulting from the proposed abstraction and concluded that all these matters are addressed in some way in other sections of this decision document.

Section 8 identifies that all persons exercising the functions and powers of the Act shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The Committee took into account the principles of the Treaty of Waitangi in making their assessment of the actual and potential environmental effects in as far as they had no evidence presented to them to show that the activity was contrary to these.

### 9.2 Section 5

In making this assessment the Committee had regard to section 5(2) of the Act, which defines the meaning of 'sustainable management', as follows:

*"...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 wellbeing 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.”*

In making this assessment, the Committee took into account the following factors:

- The benefits that the proposed abstraction will bring to the wider community;
- The uncertainty of information presented in the evidence;
- The **potential** adverse effects that the abstraction has on water levels in Tawaha and the Lower Valley;

In light of these factors, the Committee considers that the proposed abstraction does not constitute “sustainable management of natural and physical resources” in that:

- It does not adequately sustain the potential of the groundwater resource in the Tawaha and Lower Valley Management Zones in the Wellington Region for future generations;
- There are potential adverse effects on other bores in the Tawaha and Lower Valley aquifers which may not be adequately avoided, remedied or mitigated.

## **10. Main findings of fact**

### **10.1 Applicants’ bore accesses Tawaha shallow aquifer**

After hearing all the evidence, the Committee concluded that although information can never be complete on a heterogeneous aquifer system hidden from view underground, the evidence available clearly pointed to the fact that the shallow aquifer accessed by the applicants’ bore was a Tawaha zone shallow aquifer that most likely leaks into the lower aquifer which continues into the Pukeo area.

### **10.2 Aquifer Allocation and Stress**

The Committee concurs with the evidence presented by the officer report and Dr Gyopari’s slide presentation. From this they conclude that the Tawaha aquifer is fully allocated and stressed. They also find that the aquifer system down-gradient of the applicants’ bore also appears to be under stress. The Committee would urge the Environmental Regulation Department to take care in assessing any further applications for groundwater from the Pukeo area as it considers further takes from this area could lead to serious cumulative effects on the groundwater resource.

## 11. Decision and reasons

The safe yield of 11 million cubic metres a year identified by the RFP for the Tawaha groundwater management zone applies and is already allocated. As there is no allocation available for the proposal and in the light of evidence of aquifer stress in the Tawaha and Lower Valley aquifers, the Committee conclude that they must therefore decline the application.

For the reasons summarised above, the Committee, acting pursuant to the powers delegated to them by the Wellington Regional Council under Section 34 of the Act, and subject to Sections 104 and 104B of the Act, hereby **declines** the following resource consent application:

**WAR0803676 [26775]:** Water permit: permit to take and use groundwater from an existing bore (S27/0846) located in the Tawaha Groundwater Zone for irrigation purposes.

DECISION DATED at Wellington this sixteenth day of November 2009

For the Wellington Regional Council:



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Cr Sally Baber (Chair)