

CANTERBURY REGIONAL COUNCIL

THE TRANSITIONAL REGIONAL PLAN FOR THE NELSON-MARLBOROUGH REGION AS IT APPLIES WITHIN THE KAIKOURA DISTRICT INCORPORATING PLAN CHANGES 1 & 2

Report R01/15
ISBN 1-86937-415-0
31 May 2001





Prepared under the Resource Management Act 1991

I hereby certify that this is a correct copy of the Transitional Regional Plan for the Nelson-Marlborough Region as it applies within the Kaikoura District incorporating Plan Changes Number 1 and 2.

The Council approved the changes at a meeting of the Canterbury Regional Council on 31 May 2001 with the changes to be Operative on Monday 18 June 2001.



R B Johnson
CHAIRMAN
CANTERBURY REGIONAL COUNCIL
31 May 2001

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58 Kilmore Street
P O Box 345
CHRISTCHURCH
Telephone: (03) 3653 828
Fax: (03) 3653 194
Website: www.ecan.govt.nz

The common seal of the Canterbury Regional Council was affixed in the presence of:

Ian A Cumming
Chief Executive
31 May 2001



**Environment
Canterbury**
Your regional council

**TRANSITIONAL REGIONAL PLAN FOR THE NELSON-MARLBOROUGH
REGION AS IT APPLIES WITHIN THE KAIKOURA DISTRICT**

CHANGE NO. 1

In each of the following 16 General Authorisations delete the words "*until 31st December 2000*" and the words "*, before that date*":

1. TAKE – MINOR FARMING
2. TAKE – MINOR SUPPLY
3. TAKE – ROAD CONSTRUCTION
4. TAKE/DISCHARGE – SPRAYING
5. TAKE/DISCHARGE – AQUATIC HERBICIDES
6. TAKE/DISCHARGE – DRILLING FOR AQUIFER INVESTIGATIONS
7. TAKE/DISCHARGE – ALLUVIAL PROSPECTING AND SMALL SCALE ALLUVIAL MINING
8. TAKE/DISCHARGE – FLOODWATER PUMPING STATIONS
9. TAKE/USE/DISCHARGE – SMALL SCALE HYDROELECTRIC
10. DISCHARGE – STORMWATER/DRAINAGE
11. DISCHARGE -- DYE TRACERS
12. DISCHARGE – SWIMMING POOL
13. DISCHARGE – SEPTIC TANK WASTE
14. DISCHARGE – DAIRY OR PIGGERY WASTE ONTO LAND
15. DAMMING – SMALL DAMS
16. DAMMING/DIVERSION – RIVER CONTROL



**TRANSITIONAL REGIONAL PLAN FOR THE NELSON-MARLBOROUGH
REGION AS IT APPLIES WITHIN THE KAIKOURA DISTRICT**

CHANGE NO. 2

In General Authorisation 13. DISCHARGE – SEPTIC TANK WASTE add the following conditions:

13.3A The discharge shall only be domestic sewage and shall not exceed 2,000 litres per day from one installation. The total discharge on any one property shall not exceed the volumes specified in the following table:

| Property Size | Maximum Daily Discharge | Equivalent Domestic Installation |
|----------------------|--------------------------------|---|
| Up to 8 ha | 3,000 litres | 1.5 |
| 8 to 40 ha | 4,000 litres | 2.0 |
| 40 to 200 ha | 6,000 litres | 3.0 |
| Above 200 ha | 10,000 litres | 5.0 |

13.3B The discharge shall be from a sewage tank installed either in accordance with the New Zealand Standards NZS 4610: Household Septic Tank Systems, or to an equivalent standard that has the approval of the appropriate officer of the Kaikoura District Council.

13.3C Where highest groundwater levels can be closer than 30 metres from the ground surface, the discharge shall be treated so that the final discharge contains less than 1,000 faecal coliform bacteria per 100-millilitre sample.

13.3D The discharge shall be located further than 20 metres from any surface water resource or from the mean spring high water mark of the sea.



**EXTRACTS FROM THE NELSON-MARLBOROUGH REGIONAL COUNCIL
TRANSITIONAL REGIONAL PLAN AS IT APPLIES TO KAIKOURA DISTRICT INCLUDING
CHANGES 1 AND 2 MADE OPERATIVE ON 18 JUNE 2001**

NELSON-MARLBOROUGH REGIONAL COUNCIL

RESOURCE MANAGEMENT ACT 1991

TRANSITIONAL REGIONAL PLAN

1. Introduction

This document is a Transitional Regional Plan constituted by the Resource Management Act 1991 (the Act) and is in force in the Nelson-Marlborough region, excluding the coastal marine area, from 1 October 1991.

The plan consists of certain instruments that control or allow activities affecting natural and physical resources in the Nelson-Marlborough region, excluding the coastal marine area. A Transitional Regional Coastal Plan is constituted separately for the coastal marine area of the Nelson-Marlborough region and in force from 1 October 1991. The instruments in this Transitional Regional Plan were in force before 1 October 1991 and were made or established under the following Acts:

- The Water and Soil conservation Act 1967
- The Soil Conservation and Rivers Control Act 1941
- The Soil Conservation and Rivers Control Act 1941
- The Clean Air Act 1972

The Act provides for the instruments in this plan to continue in effect until the plan is changed or reviewed.

Each instrument in this plan is reproduced in the terms of its original establishment. Each instrument is prefaced by explanatory notes that describe the instrument's original purpose and intent, its history of establishment, the effect of the Act in interpreting the instrument, and other relevant explanatory material.

3. General authorisations

Original purpose and intent

General Authorisations (GAs) are instruments which allow or control certain water use activities, including discharges into natural water. They were established under section 22 of the Water and Soil Conservation Act 1967. They usually cover activities with minor or particular impacts on water and can authorise or restrict those activities over the whole of a defined area or region, or relate specifically to a defined water body.

History of establishment

Council's current set of 16 GA's was established under section 22(1) of the Water and Soil Conservation Act 1967 by resolution at a Council meeting on 16 October 1990, and publicly notified on 26 October 1990. It replaced a series of prior GA's set out at the end of the GA's.

The effect of the Act

Each GA is now a deemed regional rule:

- GA Nos. 1 to 14 are regional rules in respect of permitted activities, that means that any person within the Nelson-Marlborough region is permitted to undertake an activity provided for by the GA as of right, so long as they comply with all conditions of the GA.
- The Act modifies any general authorisation permitting damming of any river or stream by requiring that GA's providing for damming are regional rules in respect of discretionary activities. That means that a water permit will be required for any damming under Council's current GA No's. 15 and 16 (as far as GA No. 16 provides for damming). A water permit will require an application to the Nelson-Marlborough Regional Council on forms available at Council offices, together with the payment of an application fee as deposit against expenses. Applications may be publicly notified or not notified in accordance with the Act.

It should also be noted that GA Nos. 5, 11 and 14 require the registration of the exercise of those authorisations prior to the use or activity being commenced.

Explanatory guide

The following is an explanatory guide to individual GA's:

1. Take – Minor Farming

This GA provides for water to be taken for minor day to day farm water uses which do not warrant water rights. The 10m³ per day maximum take authorised, together with the conditions set, should ensure a minimal impact on any water resource affected.

The purposes for which natural water can be taken under this GA are:

- (a) Milk cooling; natural water taken to use in heat exchangers for cooling milk vats;
- (b) The washing down of milking/dairy sheds, piggeries/pigsties, yards, farm equipment and farm buildings;
- (c) Sheep dipping;
- (d) Any other minor farming purpose.

The GA does not authorise the taking of natural water for commercial irrigation or the processing of agricultural products. The GA confers no right to discharge water, waste or water containing waste.

All discharges which affect natural water must be authorised separately either under another GA specific to the type of discharge eg GA No. 14, or under a water right.

2. Take – Minor Supply

This GA provides for natural water to be taken for supply for any beneficial water use. The GA is a virtual extension to the right to take for domestic supply situations which, whether commercial or non-commercial, would usually have very limited effect on any water resource. The limit of 5 m³ per day gives an idea of the scale envisaged. Particular note should be made of Condition 2.2 of this GA which is designed to protect other users stock and domestic supplies. For example, if the taking of natural water for a subdivision deprives any person of reasonable stock and domestic supplies, then the subdivision developer would cease to be authorised under this GA and a water right would be required.

The GA confers no right to discharge water, waste or water containing waste. All discharges which affect natural water must be authorised separately either under another GA specific to the type of discharge eg. GA No.13, or under a water right.

3. Take – Road Construction

This GA provides for any reasonable quantity needed for road construction, for example the dampening of roadways during sealing operations or for cement mixing for curbing. There is no volume limits set, it was felt that the use and conditions would be self-regulating.

4. Take/Discharge – Spraying

This GA provides inducement to spray users to be more careful with spray use, in that they will be protected from prosecution for placing spray (defined in the Act as a waste) in a position where it is likely to contaminate natural water, but only if the spray user carefully adheres to the resource protecting conditions of the GA. There are no limits on the amount of natural water that can be taken. Sprayers are advised to take particular note of the specific conditions of this GA which have been designed to safeguard natural water resources.

When handling and applying sprays you should be aware of the obligations and liabilities of the Pesticides Regulations 1983 and the Toxic Substances Regulations 1983, eg. Regulation 10 of the Pesticides Regulations 1983 states: 'Every person commits an offence ... who applies or causes to be applied any herbicide in such a reckless manner that damage results to any property other than the property on which he applied or intended to apply the herbicide'.

5. Take/Discharge – Aquatic Herbicides

This GA provides for the discharge of special herbicides for aquatic weed control to clean drainage channels choked with weed growth. Aquatic herbicides are also used for the control of noxious water weeds. Only carefully controlled operations using recognised aquatic weed control reagents are authorised. The user must give the Nelson-Marlborough Regional Council discharge details before discharge commences. Note must be taken of Condition 5.6 which prohibits discharges of herbicides for aquatic weed control between 1 April and 30 September each year.

6. Take/Discharge – Drilling and Aquifer Investigation

This GA provides for the taking and discharge of water during well drilling operations, aquifer testing and investigation. Any discharge must be onto land to minimise resource impacts. The GA covers water taken and used for cooling and lubrication of drilling equipment and water taken and discharged from a bore for water quality or yield testing. Care must be taken with water discharged to ensure that no pollution of natural water takes place.

7. Take/Discharge – Alluvial Prospecting and Small Scale Alluvial Mining

This GA provides for small-scale alluvial (instream) mining operations by prospectors, small-scale miners and recreational miners. The main resource impacts from such operations are stream bed disturbance and contamination of water by sediment. Conditions set limits on sediment loading and the amount of water taken with respect to environmental effects. Users of this GA must be careful that sediments from their prospecting/mining operation do not exceed the criteria set in Condition 7.5 of the GA.

8. Take/Discharge – Flood Pumping Stations

This GA provides for the taking and discharge of water during the pumping of flood and drainage water. The GA applies to local authority pumping stations only.

9. Take/Use/Discharge – Small Scale Hydroelectric

This GA authorises 'domestic' scale hydroelectric schemes. There are a number of these in operation in the Marlborough Sounds. The GA is limited to those hydroelectric generators which require not greater than 25 litres of natural water per second and have a maximum output not greater than 5 kilowatt. Users should note that this GA only authorises the taking, use and discharge of water for run-of-stream type generator systems. Damming of natural water would require a separate water right if the dam and its effects exceed the criteria and conditions of GA No.15. The diversion of natural water would also require a separate water right.

10. Discharge – Stormwater/Drainage

This GA authorises all stormwater drainage discharges, except the drainage of certain wetlands. Discharges are to be by gravity only and users should note that the GA does not authorise the discharge of stormwater within urban areas. There have been no flow rate or outfall size limits set as outfall structures and drainage design criteria would be matters considered under the watercourse consent provisions of the Nelson-Marlborough Regional Council Bylaw 1990.

11. Discharge – Dye Tracers

This GA authorises the discharge of dye during flow studies using approved non-toxic dyes. This GA requires a user to supply to Council a prior written notice containing the information asked in Condition 11.2.

12. Discharge – Swimming Pool

This GA authorises the discharge of swimming pool waste water where there are no local Bylaws requiring discharge to sewage systems. For resource protection pool treatment chemicals must be neutralised prior to discharge and the rate of discharge is limited to 5 litres per second.

13. Discharge – Septic Tank Waste

This GA authorises the discharge of domestic septic tank waste via ground soakage. This is probably one of the more obvious sources of potential groundwater contamination. Septic tank systems which are well designed, installed and maintained, and have good soakage areas well above groundwater, usually provide many years of service without detrimental impact. The GA conditions are designed to induce people to be careful with their septic tank/soakage field designs and be aware of the consequences of badly maintained systems.

14. Discharge – Dairy or Piggery Waste onto Land

This GA authorises the discharge of dairy shed and piggery wastes by spraying onto land. In most instances this is more desirable than any other method of dairy shed and piggery waste disposal. Dairy shed waste is relatively innocuous if the spray system is well designed and managed. The return of dairy shed effluent to pastures effectively recycles nutrients. Piggery waste is more volatile, can smell and may have higher pathogen levels. If sprayed too heavily piggery waste can 'burn' and smother pasture. The GA conditions are designed to authorise effluent discharge in a manner to prevent any significant contamination of groundwater and to prevent the direct and indirect contamination of surface water, probably the more common fault of badly managed spray irrigation systems. Users should note the 6 millimetre per hour maximum discharge rate (equals 60m³ per hectare per hour).

15. Damming – Small Dams

This GA authorises small stock dams, weirs and the like. The maximum catchment size of 20 ha recognises the minimal water resource impacts of dams in small catchments. The conditions set are designed to protect other instream values and stream users. The GA only covers the damming effect, not the taking of natural water from behind the dam.

16. Damming/Diversion – River Control

This GA authorises the small scale damming and diversions which occur during the installation of river and stream crossings or as a result of the construction of flood or erosion control works. The designs and structural integrity of such works would be assessed under the watercourse consent provisions of the Nelson-Marlborough Regional Council Bylaw 1990. Normal water rights are required for major river control works. The conditions set are to protect instream values and the rights of other users.

GENERAL AUTHORISATIONS

Pursuant to Section 22(1) of the Water and Soil Conservation Act 1967, notice is hereby given that the Nelson-Marlborough Regional Council, at its meeting held on the 16th day of October 1990, resolved to adopt and publicly notify the following General Authorisations.

Contents

1. TAKE – MINOR FARMING
2. TAKE – MINOR SUPPLY
3. TAKE – ROAD CONSTRUCTION
4. TAKE/DISCHARGE – SPRAYING
5. TAKE/DISCHARGE – AQUATIC HERBICIDES
6. TAKE/DISCHARGE – DRILLING FOR AQUIFER INVESTIGATIONS
7. TAKE/DISCHARGE – ALLUVIAL PROSPECTING AND SMALL SCALE ALLUVIAL MINING
8. TAKE/DISCHARGE – FLOOD PUMPING STATIONS
9. TAKE/USE/DISCHARGE – SMALL SCALE HYDROELECTRIC
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14. DISCHARGE – DAIRY OR PIGGERY WASTE ONTO LAND
15. DAMMING – SMALL DAMS
16. DAMMING/DIVERSION – RIVER CONTROL

1. TAKE - MINOR FARMING

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking of up to 10 cubic metres per day of natural water for the purposes of milk-cooling; washing of milking sheds, piggeries, yards, equipment and buildings; sheep-dipping and any other minor farming purpose, excluding commercial irrigation or the processing of agricultural products, subject to the following conditions:

- 1.1 That this authorisation confers no right to discharge water, waste or water containing waste.
- 1.2 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 1.3 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 1.4 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 1.5 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 1.6 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

2. TAKE – MINOR SUPPLY

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking of up to 5 cubic metres per day of natural water for the purpose of supply for any beneficial use, subject to the following conditions:

- 2.1 That this authorisation confers no right to discharge water, waste or water containing waste.
- 2.2 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 2.3 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 2.4 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 2.5 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 2.6 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

3. TAKE – ROAD CONSTRUCTION

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking of any reasonable quantity of natural water for road construction, road reconstruction or road repair, subject to the following conditions:

- 3.1 That this authorisation confers no right to discharge water, waste or water containing waste.
- 3.2 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 3.3 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 3.4 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 3.5 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 3.6 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

4. TAKE/DISCHARGE – SPRAYING

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking of natural water, and for the discharge of that water mixed with insecticides, herbicides, fungicides or pesticides that have been registered pursuant to the Pesticides Act 1979, hereinafter referred to as 'spray', for ground or aerial spraying onto land in circumstances which may result in that spray entering natural water, subject to the following conditions:

- 4.1 That the discharge of waste chemicals is not authorised.
- 4.2 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 4.3 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 4.4 That the discharge of spray shall not significantly adversely affect the suitability of water used for any other authorised use.
- 4.5 That the discharge of spray shall not significantly adversely affect any fishery or wildlife, and that all practicable measures shall be taken to minimise any adverse effect on any fishery or wildlife.
- 4.6 That there shall be no discharge of spray within 5 metres of the banks of any natural waterbody or watercourse.
- 4.7 That the spray shall be prepared and applied in accordance with the manufacturer's directions.
- 4.8 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 4.9 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 4.10 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 4.11 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

Note: When spraying under this authorisation you should be aware of the restrictions and obligations in the Toxic substances Regulations 1983 and the Pesticides Regulations 1983.

5. TAKE/DISCHARGE – AQUATIC HERBICIDES

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking of natural water, and for the discharge of the water mixed with aquatic herbicides, where those herbicides have been registered by the Pesticides Board pursuant to the Pesticides Act 1979, and have distinct label claims for use over or in watercourses, or have been recognised by the Pesticides Board as being suitable for use over or in watercourses, hereinafter referred to as 'aquatic herbicide', by spraying or injection into or adjacent to constructed drains or channels for the purpose of controlling aquatic weeds, subject to the following conditions:

- 5.1 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 5.2 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 5.3 That the discharge of aquatic herbicide shall not significantly adversely affect the suitability of water used for any other authorised use.
- 5.4 That there shall be no discharge of aquatic herbicide into estuarine or seawater.
- 5.5 That the discharge of aquatic herbicide shall not significantly adversely affect any fishery or wildlife, and that all practicable measures shall be taken to minimise any adverse effect on any fishery or wildlife.
- 5.6 That no discharge of aquatic herbicide shall take place in any year within the period 1 April to 30 September.
- 5.7 That any person who intends to discharge aquatic herbicide pursuant to this authorisation shall give the Director Resource Planning of the Nelson-Marlborough Regional Council at least ten working days prior written notice of:
 - (a) the location and area of the constructed drain or channel to be sprayed or injected;
 - (b) the type and quantity of aquatic herbicide to be used;
 - (c) the aquatic weed being targeted;
 - (d) the date of commencement of the aquatic herbicide discharge;
 - (e) the planned duration of the proposed aquatic herbicide discharge.
- 5.8 That the aquatic herbicide used shall be prepared and applied in accordance with the manufacturer's directions, and the recommendations of the current editions of the Ministry of Agriculture and Fisheries Aglink publications FPP607 and FPP608 "Herbicides for Aquatic Weed Control" guides 1 and 2.
- 5.9 That the discharge of aquatic herbicide shall be under the direct control of an operator duly registered under the Agricultural Chemicals (Registration of Applicators) Regulations 1971.
- 5.10 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 5.11 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 5.12 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.

5.13 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

Note: When using aquatic herbicides under this authorisation, you should be aware of the obligations and restrictions in the following statutes and regulations: the Health Act 1956, in particular Sections 60, 61 and 62; the Freshwater Fisheries Regulations 1983; the Wildlife Regulations 1955; and the Conservation Law Reform Act 1990.

6. TAKE/DISCHARGE – DRILLING FOR AQUIFER INVESTIGATIONS

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking and discharge of natural water containing waste onto land in circumstances which may result in that discharge entering natural water, for drilling for aquifer investigation purposes, excluding drilling for oil investigation or hard rock mineral investigation, subject to the following conditions:

- 6.1 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 6.2 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 6.3 That the discharge shall not significantly adversely affect any fishery or wildlife and all practicable measures shall be taken to minimise any adverse effect on any fishery or wildlife.
- 6.4 That the discharge shall not significantly adversely affect the suitability of water used for any other authorised use.
- 6.5 That no person shall exercise this authorisation so as to adversely affect any land owned or occupied by another person, without that other person's consent.
- 6.6 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 6.7 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 6.8 That this authorisation is subject to cancellation, in whole or in part, if and whenever in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 6.9 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

7. TAKE/DISCHARGE – ALLUVIAL PROSPECTING AND SMALL SCALE ALLUVIAL MINING

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking and discharge of natural water or natural water containing sediment for alluvial prospecting and for small scale alluvial mining operations, where small scale shall mean the use of any machine with a motive power of 7.5 kilowatt (equals 10 horsepower) or less, or the use of any non-motorised manually operated device, subject to the following conditions:

- 7.1 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 7.2 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 7.3 That the discharge of natural water or natural water containing sediment shall not significantly adversely affect the suitability of water used for any other authorised use.
- 7.4 That no taking or discharge under this authorisation shall take place in any year within the period 31 May to 31 August.
- 7.5 That any discharge into natural water shall not cause the visual clarity in the receiving water to change to a conspicuous degree and shall not cause greater than a 30% reduction in clarity measured by a black disc reading in the receiving water at a distance of 50 metres downstream from the discharge point, when referenced to a black disc reading measured immediately upstream from the discharge point.
- 7.6 That the rate of taking and the rate of discharge shall not exceed 50 litres per second or 20% of the measurable surface flow in the watercourse, whichever is the lesser.
- 7.7 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 7.8 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 7.9 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 7.10 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

8. FLOODWATER PUMPING STATIONS:

Pursuant to Section 22 of the Water and soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking, and discharge of water into any natural water by any floodwater pumping station of any local authority during flood and drainage pumping operations, subject to the following conditions:

- 8.1 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 8.2 That the discharge shall not significantly adversely affect the suitability of water used for any other authorised use.
- 8.3 That this authorisation shall not apply to the drainage of natural bodies of standing water, including swamps, bogs, marshes, ponds, or lakes.
- 8.4 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 8.5 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 8.6 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 8.7 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

9. TAKE/USE/DISCHARGE – SMALL SCALE HYDROELECTRIC:

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking, use and discharge of up to 25 litres per second of natural surface water by or for the operation of turbines or other similar devices used for the generation of electricity, where the taking and discharge is from and into the same body of water, subject to the following conditions:

- 9.1 That this authorisation confers no right to construct any dam or weir, or to divert natural water.
- 9.2 That the taking of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 9.3 That the taking of natural water under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 9.4 That the discharge shall not significantly adversely affect the suitability of water used for any other authorised use.
- 9.5 That the discharge shall not significantly adversely affect any fishery or wildlife.
- 9.6 That the generation rate of hydroelectricity produced under this authorisation is limited to not more than 5 kilowatt.
- 9.7 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 9.8 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 9.9 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 9.10 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

Note: You should be aware of obligations concerning fish passage in the Freshwater Fisheries Regulations 1983.

10. DISCHARGE – STORMWATER/DRAINAGE

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the taking and diversion, for the purpose of disposal, of stormwater and land-drainage water, and the discharge by gravity into any natural water of the stormwater and land-drainage water, consequent upon the construction of a drain or a drainage system, provided that the discharge is substantially free of contaminants, subject to the following conditions:

- 10.1 That this authorisation shall not apply to any discharge from any catchment area that drains into or lies within any area zoned for any urban use under the relevant district scheme.
- 10.2 That any necessary consents for any diversion or other construction works shall be first obtained under the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990.
- 10.3 That the discharge shall not worsen or cause any significant erosion or inundation of land.
- 10.4 That the discharge shall not significantly adversely affect the suitability of water used for any other authorised use.
- 10.5 That the discharge shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 10.6 That this authorisation shall not apply to the drainage of naturally occurring bodies of standing water, including swamps, bogs, marshes, ponds, or lakes.
- 10.7 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 10.8 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 10.9 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 10.10 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

11. DISCHARGE – DYE TRACERS

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the discharge of chemically inert, non-radioactive dye into natural water to trace water movement, subject to the following conditions:

- 11.1 That the discharge of dye shall not significantly adversely affect the suitability of water used for any other authorised use.
- 11.2 That any person who intends to discharge dye pursuant to this authorisation shall give the Director of Resource Planning of the Nelson-Marlborough Regional Council at least ten working days prior written notice of:
 - (a) the location and area of the waterbody or watercourse to be dyed;
 - (b) the type and quantity of dye to be used;
 - (c) the reason for the discharge of dye;
 - (d) the date and time of commencement of the discharge of dye;
 - (e) the planned duration of the proposed discharge of dye.
- 11.3 That the dye shall be of a chemical composition accepted as suitable for dye tracing work and shall be sufficiently diluted in the receiving water as to be harmless to aquatic life and shall cause no deterioration of water quality other than discoloration.
- 11.4 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 11.5 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 11.6 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 11.7 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

12. DISCHARGE – SWIMMING POOL

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the discharge of swimming pool waste water into natural water, subject to the following conditions:

- 12.1 That the rate of discharge shall not exceed 5 litres per second.
- 12.2 That the discharge shall not significantly adversely affect the suitability of water used for any other authorised use.
- 12.3 That the discharge of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values of any water body, and all practicable means shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 12.4 That this authorisation does not apply in any area where district or City Council Bylaws require that swimming pool waste water is discharged into a sewage system.
- 12.5 That no discharge shall occur while swimming pool treatment chemicals are active in the waste water.
- 12.6 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 12.7 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 12.8 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

13. DISCHARGE – SEPTIC TANK WASTE

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the discharge of waste from any domestic septic tank treating domestic sewage into the ground for disposal in circumstances which may result in that waste entering natural water, subject to the following conditions:

- 13.1 That the discharge shall not significantly adversely affect the suitability of water used for any other authorised use.
- 13.2 That there shall be no discharge of septic tank waste into surface water.
- 13.3 That the discharge shall not result in any significant contamination of groundwater.
- 13.3A The discharge shall only be domestic sewage and shall not exceed 2,000 litres per day from one installation. The total discharge on any one property shall not exceed the volumes specified in the following table:

| Property Size | Maximum Daily Discharge | Equivalent Domestic Installation |
|---------------|-------------------------|----------------------------------|
| Up to 8 ha | 3,000 litres | 1.5 |
| 8 to 40 ha | 4,000 litres | 2.0 |
| 40 to 200 ha | 6,000 litres | 3.0 |
| Above 200 ha | 10,000 litres | 5.0 |

- 13.3B The discharge shall be from a sewage tank installed either in accordance with the New Zealand Standards NZS 4610: Household Septic Tank Systems, or to an equivalent standard that has the approval of the appropriate officer of the Kaikoura District Council.
- 13.3C Where highest groundwater levels can be closer than 30 metres from the ground surface, the discharge shall be treated so that the final discharge contains less than 1,000 faecal coliform bacteria per 100-millilitre sample.
- 13.3D The discharge shall be located further than 20 metres from any surface water resource or from the mean spring high water mark of the sea.
- 13.4 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 13.5 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 13.6 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 13.7 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

- Note:**
- 1. The installation of your septic tank effluent discharge system will require approval under the Plumbing and Drainage Regulations administered by your District or City Council.
 - 2. To ensure compliance with the above conditions, and to protect your septic tank soakage field, it is wise to have your septic tank regularly cleaned out to ensure the effective treatment of sewage prior to discharge.
 - 3. You are required to comply with the Bylaw requirements of your District or City Council regarding the connection of your sewage system to a reticulated sewage scheme.

14, DISCHARGE – DAIRY SHED OR PIGGERY WASTE ONTO LAND

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the discharge of water containing dairy shed or piggery waste on to land or into the ground in circumstances which may result in that discharge entering natural water, subject to the following conditions:

- 14.1 That the discharge of waste shall not significantly adversely affect the suitability of water used for any other authorised use.
- 14.2 That there shall be no ponding or runoff of waste into surface water.
- 14.3 That there shall be no discharge of waste within 20 metres from any watercourse.
- 14.4 That the discharge shall not result in any significant contamination of groundwater or surface water.
- 14.5 That the rate of discharge shall be no greater than 6 millimetres per hour (equals 60 cubic metres per hectare per hour).
- 14.6 That any person who intends to discharge pursuant to this authorisation shall give the Director of Resource Planning of the Nelson-Marlborough Regional Council at least ten working days prior written notice of:
 - (a) the type of discharge (eg. piggery, dairy shed);
 - (b) the location and area of land affected;
 - (c) the proposed rate of discharge;
 - (d) any further information as required.
- 14.7 That pursuant to Section 22(1)(a) of the Water and Soil Conservation Act 1967, this authorisation does not apply to any discharge into natural water that has been classified under Section 26E of that Act.
- 14.8 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 14.9 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 14.10 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

15. DAMMING – SMALL DAMS

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the damming of any stream, subject to the following conditions:

- 15.1 That the damming of any stream under this authorisation shall not deprive any person of natural water reasonably required for that person's domestic water supply or stock drinking water requirements, or for firefighting, or any other authorised use.
- 15.2 That the damming shall not significantly adversely affect the suitability of water used for any other authorised use.
- 15.3 That the damming shall not significantly adversely affect any fishery, wildlife or recreational values, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 15.4 That this authorisation is limited to the damming of any stream draining a catchment area of no more than 20 hectare in area immediately upstream from the dam.
- 15.5 That pursuant to the first proviso of Section 22(2) of the Water and Soil Conservation Act 1967, no person shall exercise this authorisation so as to adversely affect any land owned or occupied by another person, without that other person's consent.
- 15.6 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 15.7 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 15.8 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

Note: You should be aware of obligations concerning fish passage in the Freshwater Fisheries Regulations 1983.

16. DAMMING/DIVERSION – RIVER CONTROL

Pursuant to Section 22 of the Water and Soil Conservation Act 1967, the Nelson-Marlborough Regional Council hereby authorises the damming of any river or stream, or the diversion of overland flow and minor proportions of instream flow:

- as a result of the installation of crossings over or through watercourses, including: culverts, bridges, fords and floodbanks, or
- as a result of the existence or repair of flood-control, or erosion-control works including: floodbanks, drainage outfalls and pumping stations, and channel-training and flood protection works,

but excluding floodgates, subject to the following conditions:

- 16.1 That consent for any such crossings or works shall be first obtained under the Nelson-Marlborough Regional Council Bylaw 1990.
- 16.2 That any diversion of natural water shall be limited to that contained within the existing flood channel of any watercourse.
- 16.3 That any damming or diversion of natural water shall not significantly adversely affect any fisheries, wildlife habitats, or recreational values, and all practicable measures shall be taken to minimise any adverse effect to fisheries, wildlife or recreational values.
- 16.4 That any damming or diversion shall not significantly adversely affect the suitability of water used for any other authorised use.
- 16.5 That no person shall dam any river or stream or divert any natural water so as to adversely affect any land owned or occupied by another person, without that other person's consent.
- 16.6 That any person who intends to exercise this authorisation shall give the Director of Resource Planning of the Nelson-Marlborough Regional Council at least ten working days prior written notice of:
 - (a) the location of works;
 - (b) a description of works;
 - (c) the date of commencement of works;
 - (d) an estimation of the duration of the damming or diversion;
 - (e) evidence of consent required under 16.1;
 - (f) any further information as required.
- 16.7 That this authorisation is subject to cancellation, in whole or in part, if and whenever, in the Nelson-Marlborough Regional Council's opinion the public interest so requires.
- 16.8 That this authorisation shall not relieve any person from any obligation to obtain consent under any statute or Bylaw, including the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990, other than under Section 22 of the Water and Soil Conservation Act 1967.
- 16.9 That this authorisation shall continue in force unless, in the public interest, the Nelson-Marlborough Regional Council cancels it, in whole or in part.

Note: You should be aware of obligations concerning fish passage in the Freshwater Fisheries Regulations 1983.

5. Water and Soil Bylaw 1990

Original purpose and intent

One of the responsibilities of the Nelson-Marlborough Regional Council is the management of water, soil and gavel resources in the Nelson-Marlborough region. In carrying out this responsibility, the Council made the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990.

The Bylaw is intended to serve two main purposes:

- The first is to manage and control activities affecting water and soil resources so as to protect those resources from unwise, destructive and wasteful use.
- The second is to ensure that the public are protected from hazards resulting from the unwise, destructive and wasteful use of those resources.

Put simply; to protect the resource from the public and to protect the public from the resource.

The Bylaw contains sections covering the following activities:

- Those affecting watercourses and defences against water (e.g. stopbanks and floodgates);
- The removal of gravel and other aggregate from watercourses;
- The burning of vegetation in specific areas;
- The design, construction, alteration, removal and repair of dams;
- The drilling of bores or wells, for extracting groundwater.

For each of the activities listed above a Regional Council consent is required.

History of establishment

The Nelson-Marlborough Regional Council Water and Soil Bylaw 1990 was made under two Acts of Parliament; the Soil Conservation and Rivers Control Act 1941, and the Water and Soil Conservation Act 1967. The Bylaw replaces Bylaws that existed since 1945. The Bylaw first came into force on 1 April 1991.

The effect of the Act

Provisions of the Bylaw requiring the consent of the Regional Council for certain activities are deemed to be regional rules in respect of discretionary activities. That means that a land use consent will be required for any of those activities. A land use consent will require an application to the Nelson-Marlborough Regional Council on forms available at council offices, together with the payment of an application fee as a deposit against expenses. Applications may be publicly notified or not publicly notified, in accordance with the Act.

Although the Bylaw provides that any Bylaw consent can be cancelled by the Council if the terms or conditions of the consent have not been followed, the Act has had the effect of relegating that power to the Planning Tribunal. The Council may apply to the Planning Tribunal for an enforcement order, or issue an abatement notice requiring compliance with any conditions set on a consent.

The schedules dealing with forms for applications and permits, set out in the Second, Fourth, Fifth and Sixth Schedules of the Bylaw, are superseded by the requirements of the Act and Form 5 of the Resource Management (Forms) Regulations 1991. New forms are available at Council offices.

The schedule of application fees and other fees set out in the Seventh Schedule has been superseded by a schedule of fees and charges under the Act.

WATER AND SOIL BYLAW 1990

Analysis:

1. GENERAL

- 1.1 Short title and commencement
- 1.2 Scope
- 1.3 Interpretation

2. WATERCOURSES

- 2.1 Maintenance of watercourses and defences against water
- 2.2 Alteration to watercourse
- 2.3 Construction of defence against water
- 2.4 Obstructions and impairment of efficiency
- 2.5 Access, damage etc.

5. DAMS

- 5.1 Construction and alteration
- 5.2 Maintenance and removal

6. UNDERGROUND WATER

- 6.1 Making or altering bores
- 6.2 Records
- 6.3 Inspection of bore
- 6.4 Fitting of apparatus
- 6.5 Control of wasteful use
- 6.6. Maintenance
- 6.7 Sealing of bores
- 6.8 Control of pile driving, dredging, etc.
- 6.9 Pollution of underground water

NELSON-MARLBOROUGH REGIONAL COUNCIL WATER AND SOIL BYLAW 1990

1. GENERAL

1.1 Short title and commencement

- 1.1.1 This Bylaw may be cited as the Nelson-Marlborough Regional Council Water and Soil Bylaw 1990.
- 1.1.2 This Bylaw shall come into force on the 1st day of April 1991.

1.2 Scope

- 1.2.1 This Bylaw is made under the provisions of Sections 149 and 150 of the Soil Conservation and Rivers Control Act 1941 in respect of Sections 2, 3 and 4, Section 34A of the Water and Soil Conservation Act 1973 in respect of Section 5, and Section 4 of the Water and Soil Conservation Amendment Act 1973 in respect of Section 6.
- 1.2.2 The holding of any permit, licence, consent, or dispensation granted or issued by the Council for the authorisation of any action proposed to be undertaken under the provisions of this Bylaw or for the dispensation from any requirement under the provisions of this Bylaw does not relieve the holder or any other person from any obligation under any other legislative requirement.
- 1.2.3 Sections 2, 3 and 4 of this Bylaw shall not affect any mining privilege granted or to be granted under the Mining Act 1971, or any coal mining right granted or to be granted under the Coal Mines Act 1979 (Section 152A of the Soil Conservation and Rivers Control Act 1941).
- 1.2.4 Section 5 of this Bylaw shall not affect any structure owned by the Crown or any local authority used or to be used for the damming of any natural water, river, or stream (Section 34A of the Water and Soil Conservation Act 1967).
- 1.2.5 Notwithstanding the provisions of Section 21(1) of the Water and Soil Conservation Act 1967, Section 6 of this Bylaw applies to any bore used or to be used for the tapping of underground water for domestic needs or the needs of animals or for or in connection with fire-fighting purposes.
- 1.2.6 The Crown is bound by Sections 5 and 6 of this Bylaw (Section 3 of the Water and Soil Conservation Act 1967).
- 1.2.7 Section 6 of this Bylaw shall not affect any mining privilege under the Mining Act 1971, any coal mining right under the Coal Mines Act 1979, any licence under the Petroleum Act 1937, any coal mine within the meaning of the Coal Mines Act 1979, and quarry within the meaning of the Quarries and Tunnels Act 1982, any bore sunk in the mining of or search for coal within the meaning of the Coal Mines Act 1979, any bore sunk in the mining of or search for minerals within the meaning of Mining Act 1971 or iron sands within the meaning of the Iron and Steel Industry Act 1959, any bore sunk in the search for or recovery of petroleum products, any bore sunk under the Geothermal Energy Act 1953, any bore sunk by the Ministry of Energy or the New Zealand Geological Survey or any other bore which is for the time being in use and which has been sunk only for the purpose of obtaining geological, geophysical, or geochemical information, any right which any person may have under any Act or any rule of law to restrict or prevent, or obtain damages in respect of, the taking, use, or pollution of underground water (Section 4 of the Water and Soil Conservation Amendment Act 1973).

1.3 Interpretation

1.3.1 In this Bylaw, unless the context otherwise requires:

“Council” means the Nelson-Marlborough Regional Council and includes any person duly authorised by the Council to exercise all or any of the powers conferred upon the Council by this Bylaw.

“Bore” means every device for, or means of, tapping underground water, but does not include a natural spring or natural watercourse unless something has been done to it by any person which increases the amount of underground water tapped by it, and does not include any drain.

“Cleanse” includes the removal of any plants, debris, or any other obstruction whatsoever that detracts from the efficiency of the watercourse or defence against water.

“Consent” means any consent granted or issued by the Council pursuant to this Bylaw and includes any permit, licence, or dispensation.

“Dam” means a structure used or to be used for the damming of any natural water, river, or stream but does not include a flood bank or channel training work.

“Defence against water” includes any dam, weir, bank, carriageway, groyne, or reservoir, and any structure or appliance of any kind which has or may have the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence, in or out of a watercourse, of water including flood waters.

“Fire Authority” means fire authority as defined by Section 2 of the Forest and Rural Fires Act 1977.

“Fire Officer” means a person appointed as a Rural Fire Officer by or pursuant to section 13 of the Forest and Rural Fires Act 1977.

“Floodway” means every watercourse, and land over which floodwaters are intended or expected to pass some time to time.

“Livestock” includes any horse, cattle beast, ass or mule, goat, sheep, pig, or deer.

“Make” in relation to any bore, includes drill, dig, bore, or construct.

“Notice” in relation to Sections 2, 3 and 4, means a notice made and delivered in accordance with Section 164 of the Soil Conservation and Rivers Control Act 1941, and in relation to Sections 5 and 6 means a notice made and delivered in accordance with Section 32 of the Water and Soil Conservation Act 1967.

“Person” includes a corporation sole and also a body of persons whether corporate or unincorporate.

“Public notice” means a notice published in a newspaper circulating in the area in which the subject matter of the notice arises, or to which it relates, or a printed or written placard posted in some conspicuous place on the land or works affected by such notice or to which it relates.

“Region” means the Nelson-Marlborough region as constituted under the Local Government (Nelson-Marlborough Region) Reorganisation Order 1989.

“Repair” includes the restoration of the efficiency of a watercourse or defence against water.

“Restricted Burning Areas” means the areas in the Council’s Region where the control of lighting fires is necessary to prevent or check erosion or to promote soil conservation.

“Underground Water” means natural water as defined by Section 2 of the Water and Soil Conservation Act 1967, which is below the surface of the ground, the bed of the sea, or the bed of any lake or river or stream, whether the water is flowing or not, and if it is flowing, whether it is in a defined channel or not; and includes all natural water which has been, by means of a bore, brought above the surface from below the surface of the ground, the bed of the sea, or the bed of any lake or river of stream.

“Vegetation” includes any trees, shrubs, plants, or grasses.

“Watercourse” includes every river, stream, passage, and channel on the ground whether natural or not, through which water flows, whether continuously or intermittently; but does not include any piped water supply, tunnel, conduit, aqueduct, water race forming part of the reticulation of or for any water supply area or water race region or irrigation region, water race authorised under the Water and Soil Conservation Amendment Act 1971, or any water table on a public road which is for the sole purpose of conveying the run-off from the carriageway.

“Water right” means any right in respect of natural water granted or authorised by or under the Water and Soil Conservation Act 1967 or any other Act.

2. WATERCOURSES

2.1 Maintenance of watercourses and defences against water

- 2.1.1 Subclauses 2.1.2 to 2.1.4 hereof shall apply to all watercourses and defences against water in the region, but shall not apply in respect of those watercourses and defences against water that are specifically indicated on those plans of those parts of the region listed in the First Schedule to this Bylaw. The Council shall hold such plans for inspection without fee at the offices of the Council and shall issue such plans to the offices of the relevant territorial authorities.
- 2.1.2 Every owner or occupier of land in the region through which a watercourse flows shall at all times keep the watercourse cleansed, maintained, and repaired and if the owner or occupier fails to do so the Council may, by notice in writing, require such owner or occupier so to do.
- 2.1.3 Where any owner or occupier is required to cleanse, maintain, or repair any watercourse pursuant to Subclauses 2.1.2 and, after receiving notice in writing requiring the cleansing, maintenance, or repair of any watercourse, makes default in complying with the notice within the time specified in the notice in that behalf, or if no such time is specified, then within a reasonable time, does not proceed with the work, then the Council may, if it thinks fit, either itself or acting by or through its agents, cleanse or repair all or any part of parts of such watercourse.
- 2.1.4 The Council may recover from the owner or occupier the reasonable costs of carrying out any such works as aforesaid as a debt due and payable on demand by the owner or occupier to the Council and in default of such payment the costs shall be recoverable by the Council from the owner or occupier in any court of competent jurisdiction.

2.2 Alteration to watercourse

- 2.2.1 No person shall widen, deepen, or alter the course of any watercourse without the prior written consent of the Council.

2.3 Construction of defence against water

- 2.3.1 No person shall construct any defence against water without the prior written consent of the Council.

2.4 Obstructions and impairment of efficiency

- 2.4.1 No person shall obstruct or damage or impede the maintenance of any watercourse, or any floodway or defence against water under the control of the Council, or obstruct the flow of flood waters in any watercourse, or over any floodway under the control of the Council, without the prior written consent of the Council.
- 2.4.2 Subject to Subclause 2.4.4, no person shall erect or cause to be erected any structure or fence or plant or remove any vegetation and no person in occupation of any land shall suffer or permit the erection of any structure or fence or the planting or removal of any vegetation:
- (a) in any watercourse;
 - (b) within a distance of 8 metres measured from the top of the bank of any watercourse;
or
 - (c) within a distance of 8 metres measured from the landward limit of any defence against water;
 - (d) in any place where it will obstruct or is likely to obstruct or interfere with the free flow of flood waters in any existing floodway,

without the prior written consent of the Council, **provided** that for the purposes of this subclause "structure" includes any building, or any bank, dam, or other defence against water.

- 2.4.3 No person shall deposit materials in or upon any watercourse or on any floodway or defence against water under the control of the Council without the prior written consent of the Council.

2.4.2 No person shall:

- (a) excavate or install or cause to be excavated or installed any drain, pit, bore or foundation or other subsurface structure, or install or extract any pile, or remove gravel, stone or soil and
- (b) no person in occupation of any land shall suffer or permit the excavation or installation of any drain, pit, bore or foundation or other subsurface structure, or the installation or extraction of any pile, or the removal of any gravel, stone or soil

within a distance of 20 metres measured from the top of the bank of any watercourse or measured from the landward limit of any defence against water under the control of the Council or in any place on any floodway under the control of the Council, without the prior written consent of the Council.

2.5 Access, damage etc.

- 2.5.1 If, in the opinion of the Council, uncontrolled access to or passing over or along any defence against water or floodway constructed or maintained by, or under the control of the Council results in or is likely to result in damage to that defence against water or floodway, Council may restrict access in such manner as the Council considers appropriate.

5. DAMS

5.1 Construction and alteration

5.1.1 For the purposes of Section 5 of this Bylaw, “dam” means any device for impounding water that:

- (a) is greater than 2 metres measured from base to crest, or
- (b) has an upstream catchment greater than 20 hectares, or
- (c) impounds a volume of 5,000 cubic metres or greater.

No person shall construct or alter or cause or allow the construction or alteration of a dam without first having obtained a permit from the Council issued pursuant to this Bylaw.

5.1.2 Every application for a permit to construct or alter a dam pursuant to Subclause 5.1.1 shall be accompanied by a fee as specified in the Eight Schedule to this Bylaw.

5.1.3 Every application shall be accompanied by two copies of the following information:

- (a) the intended or present location of the dam;
- (b) a site plan drawn to an appropriate scale and including elevations, cross-sections and other explanatory material;
- (c) details of site investigations, design proposals, technical calculations and computations, construction materials and methods and programme of works.

All such information shall be of sufficient quality and clarity to show, to the satisfaction of the Council, the exact nature of the proposal.

5.1.4 Prior to issuing any permit, Council may, at its discretion, require the applicant to submit additional plans, specifications, or any other information to show the exact nature of the proposal.

5.1.5 The Council may issue a permit for the construction or alteration of a dam. Every permit so issued shall be in the form set out in the Fifth Schedule to this Bylaw, and may be subject to such conditions as the Council considers appropriate.

5.1.6 The Council or any person duly authorised by the Council on its behalf may issue a permit pursuant to Subclause 5.1.6. Any permit so issued shall be signed by the officer duly authorised by the Council on its behalf. Every permit issued by any person duly authorised by the Council on its behalf shall be deemed to have been issued by the Council.

5.2 Maintenance and removal

5.2.1 The owner or occupier of any land in the region shall maintain thereon all or any dams and associated structures in a good state of repair. This obligation applies irrespective of the date of construction. If the owner or occupier fails to so maintain such dams and associated structures the Council may, by notice in writing, require that person to repair, alter or remove such dams and associated structures in such manner and within such time as may be specified in the notice.

5.2.2 Within 14 days after the receipt of any notice given under Subclause 5.2.1 of this Bylaw the owner or occupier may apply in writing to the Council for the modification or withdrawal of any such notice and the owner or occupier as the case may be shall be under no obligation to repair or remove any dam or associated structure until the Council has considered the application and given the owner or occupier a further notice in writing affirming or modifying or withdrawing the previous notice. Any notice so modified shall take effect in place of the previous notice. If the Council determines that the notice shall be affirmed or modified the notice shall be complied with in time and in the manner specified by the Council in its decision.

6. UNDERGROUND WATER

6.1 Making or altering bores

6.1.1 No person shall make or alter or cause to be made or altered any bore anywhere in the region without first having obtained a permit from the Council issued pursuant to this Bylaw, provided that no permit is required:

- (a) to install any pile which extends to a depth less than 5 metres, or
- (b) to extract any pile, pipe, casing, or cylinder which extends to a depth less than 5 metres:

in all areas of the region except:

- (c) within 20 metres, measured from the top of the bank of any watercourse, or
- (d) within 20 metres, measured from the landward limit of any defence against water, or
- (e) within any floodway.

6.1.2 Every application for a permit pursuant to Subclause 6.1.1 shall be in the form set out in the Sixth Schedule to this Bylaw and shall be accompanied by a fee as specified in the Seventh Schedule to this Bylaw.

6.1.3 The Council or any person duly authorised by the Council on its behalf may issue or refuse to issue a permit. Any permit so issued shall be signed by the officer duly authorised by the council on its behalf.

6.1.4 Every permit issued by the Council pursuant to Subclause 6.1.3 shall be in the form set out in the Sixth Schedule to this Bylaw and may be issued subject to such conditions as the Council considers appropriate. Permits issued pursuant to Subclause 6.1.3 are not transferable.

6.2 Records

6.2.1 Every person who makes or maintains a bore shall keep a bore log containing drilling details in the form set out in the Seventh Schedule to this Bylaw, and any other related information that Council may require.

6.2.2 Every person who makes or maintains a bore shall keep records obtained from any measuring or recording apparatus fitted to any bore pursuant to Subclause 6.4.1 of this Bylaw.

6.2.3 Every person who makes or maintains a bore shall, if so required by notice in writing by the Council, provide the Council with:

- (a) Such information from the records kept pursuant to Subclauses 6.2.1 and 6.2.2 as the Council may require; and
- (b) Such other information in relation to the bore as in the opinion of the Council would or might be of value to the Council in the proper performance of its functions.

6.2.4 Every person who has in their possession or control any records kept in accordance with Subclauses 6.2.1 and 6.2.2 shall permit free access to such records by any person duly authorised by the Council for the purpose of inspecting and taking copies of or extracts from such records.

6.3 **Inspection of bore**

6.3.1 Every person who:

- (a) makes, maintains, operates, uses or controls any bore, or
- (b) owns or occupies any land upon which any bore is situated

shall permit the access to that bore by a person duly authorised by the Council for the purposes of:

- (c) inspecting the bore and the material excavated therefrom, or
- (d) taking any specimen of such material or of the water from the bore.

6.4 **Fitting of apparatus**

6.4.1 Every person who makes or maintains a bore shall, if so required by notice in writing by the Council:

- (a) fit to the bore and
- (b) maintain in proper working order and
- (c) record information from

such measuring or recording apparatus as in the opinion of the Council may be necessary to provide the Council with any information in relation to that bore that would or might be of value to the Council in the proper performance of its functions.

6.5 **Control of wasteful use**

6.5.1 No person who makes, maintains, operates, uses or controls any bore shall allow underground water to run to waste, except where the bore is made, operated, used, or controlled for the purpose of preventing or controlling the instability of land.

6.5.2 Subject to Subclause 6.5.1, where any person employs any method of extraction or utilisation of underground water which in the opinion of the Council is uneconomic, inefficient, or wasteful, the Council may, by notice in writing, require that person to discontinue such method of extraction or of utilisation.

6.5.3 Every bore shall be equipped with such valves and other fittings as may be necessary to control the extraction of underground water and to prevent underground water running to waste.

6.5.4 All valves and fittings installed pursuant to Subclause 6.5.3 shall be protected from damage and maintained in good working order.

6.6. **Maintenance**

6.6.1 Every person who makes, maintains, operates, uses or controls any bore shall keep it in good order and shall carry out such maintenance work as the Council may require by notice in writing.

6.7 **Sealing of bores**

- 6.7.1 Every person who makes, maintains, operates, uses, or controls any bore that is not in use for the purpose of taking water therefrom shall seal it, and keep it sealed in such manner as to prevent the entry or escape of water at any level.
- 6.7.2 Where the council considers it is necessary to remove, seal or fill or otherwise control part or all of a bore, the Council may, by notice in writing to the person who maintains, operates, uses or controls that bore, direct what action must be taken to remedy the situation and advise that person of the reasons for such action.

6.8 **Control of pile driving, dredging, etc.**

- 6.8.1 Every person intending:

- (a) To bore, drill, drive piles, dredge, or dig to a depth exceeding 5 metres;
- (b) To extract any pile, pipe, casing, or cylinder which extends to a depth exceeding 5 metres,

shall give 14 days' notice of such intent to the Council, and where the Council considers that such work could affect the supply or purity of underground water, or the integrity of any stopbank or defence against water, it may, by notice in writing to the persons proposing to carry out the work, prohibit the carrying out of the work absolutely or it may give its written consent for the work.

6.9 **Pollution of underground water**

- 6.9.1 No person shall without the prior written consent of the Council discharge or deposit, or cause to be discharged or deposited on or into any land, or allow to remain on or in any land, any matter which is liable to affect detrimentally the purity of the underground water in the region either directly or indirectly.
- 6.9.2 Every person who makes, maintains, operates, uses, or controls any bore shall, as far as practicable, ensure that no matter can enter or move through the underground water system so as to affect detrimentally the purity of the underground water either directly or indirectly because of the existence of that bore, and the Council may, by notice in writing, require that person to carry out such works as may be specified in the notice for the purpose of preventing pollution or the risk of pollution.