

BEFORE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Variation 6 to the Proposed
Canterbury Natural Resources Regional
Plan

STATEMENT OF EVIDENCE OF ANDREW JAMES MALCOLM MACLEOD

1.0 Introduction

- 1.1 My name is Andrew James Malcolm Macleod. I hold a Master of Regional and Resource Planning and Bachelor of Arts (Human Geography) both from the University of Otago, and I am a full member of the New Zealand Planning Institute. I have ten years experience in the field of planning and resource management, gained in New Zealand and Australia.
- 1.2 Since November 2006 I have been employed as a Senior Planning Consultant in the Wellington offices of Hill Young Cooper, a specialist planning and resource management consultancy with offices in Wellington and Auckland.
- 1.3 I have particular experience in the area of plan and policy development having assisted territorial authorities with plan changes, private clients with large scale private plan change applications, and given expert planning evidence in hearings on regional and district plans and plan changes.
- 1.4 Specifically in relation to this hearing on Variation 6 (“V6”) to the Proposed Natural Resources Regional Plan (“PNRRP”) I have been asked to give planning evidence by Memorial Avenue Investments Ltd (“MAIL”). MAIL own approximately 20 hectares of land at the corner of Memorial Avenue and Russley Road which is located within the “Christchurch Groundwater Protection Zone 1” in V6 (see **Appendix 1** to this statement of evidence). MAIL purchased this land from National Investment Trust (“NIT”) in December 2008 and as the new owner of the site has taken over written submissions made by NIT on V6.
- 1.5 This land is currently the subject of a private plan change application which MAIL lodged with Christchurch City Council (“CCC”) in December 2009. That application seeks to rezone MAIL’s land (and some additional adjoining land) from “Rural 5 (Airport Purposes)” in the Christchurch District Plan to a special purpose zone providing for a mix of commercial activities including retail, offices and visitor accommodation. Development will be serviced by an on-site stormwater disposal system and by connection to the reticulated sewage network (though an interim on-site sewer solution may be required in

the short-term while CCC addresses capacity constraints in its reticulated sewer network).

- 1.6 MAIL's land is also within the metropolitan urban limit defined by Environment Canterbury ("Ecan") when it made decisions on Plan Change 1 ("PC1") to the Canterbury Regional Policy Statement ("RPS") in December 2009. I also note that PC1 (including the metropolitan limit) is the subject of numerous appeal proceedings due to go before the Environment Court.
- 1.7 Through these proceedings and its private plan change proposal MAIL continues to seek and urban (commercial) future for its land, and in my opinion it is likely (and desirable) that the future use of the MAIL land is a mix of commercial activities.
- 1.8 The scope and structure of my evidence is as follows:
 - **Section 2** is an outline of the statutory context, with emphasis on the relevant provisions of the Resource Management Act 1991 ("RMA") and RPS / PC1,
 - **Section 3** sets out the details of V6 as notified, relevant recommendations contained in the officer's report and an assessment of these things in the context of MAIL's development aspirations,
 - **Section 4** includes my planning assessment taking into account the information presented in Sections 2 and 3, and
 - **Section 5** presents a summary of my evidence along with conclusions and recommendations.
- 1.9 Ultimately my evidence concludes that the objective, policies and rules in V6 should reflect an "effects based" or "risk based" approach, where the consent path that an activity must take is commensurate with the level of risk it poses to the groundwater system. This typically requires using a variety of activity classes available under the RMA (e.g. permitted, controlled, non-complying activities).
- 1.10 In coming to this conclusion I have drawn upon evidence prepared by MAIL's other witness, Mr. Ian Fraser a groundwater scientist.

1.11 In giving this statement of evidence I confirm that I have read the 'Code of Conduct for Expert Witnesses' contained in the Environment Court Consolidated Practice Note 2006. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

2.0 Statutory Context

Resource Management Act 1991

2.1 The purpose and principles of the RMA are contained in Part 2. Section 5 sets out the purpose, which is "sustainable management", which requires careful balancing of environmental, cultural, social and economic factors. Sections 6, 7 and 8 outline principles relating to "matters of national importance", a range of "other matters" and the Treaty of Waitangi.

2.2 Part 4 establishes the role of regional councils at Section 30, including importantly in the context of this statement of evidence the ability to control the use of land and discharges for the purpose of managing effects on water quality. Section 32 specifies a requirement to consider all relevant alternatives, benefits and costs in developing plans and policy statements, with an emphasis on employing the most appropriate, effective and efficient means of achieving the purpose of the RMA.

2.3 Part 5 addresses a range of requirements on regional councils, including:

- Section 63 – "Purpose of regional plans"
- Section 66 – "Matters to be considered by regional councils"
- Section 68 – "Regional rules"
- Section 69 – "Rules relating to water quality"
- Section 70 – "Rules about discharges"

- 2.4 Taking all of the above into account it is relevant to note that the RMA delegates the responsibility of managing water quality to regional councils, and empowers them to do so through controls (rules) on discharges and the use of land contained within regional plans. This provides the statutory basis for the PNRRP and V6. Full versions of the relevant sections of Parts 2, 4 and 5 are attached to this statement of evidence as **Appendix 2**.

Canterbury Regional Policy Statement

- 2.5 Sections 60(1) and 67(3)(c) RMA establish that there must at all times be a regional policy statement in place (prepared by the regional council), and that regional plans must give effect to the directions set in that regional policy statement.
- 2.6 The Canterbury RPS became operative in 1998, and Chapter 9 (“Water”) provides the overriding policy direction that Chapter 4 of the PNRRP (the subject of this hearing) must be consistent with. Overall the policy directions in Chapter 9 RPS are best described as “high level”.
- 2.7 Relevant passages from Chapter 9 of the RPS are attached to this statement of evidence as **Appendix 3**. The RPS identifies key issues relating to groundwater quality, including the importance of maintaining groundwater quality, the vulnerability of the unconfined aquifer and threats posed by specific land use activities (e.g. timber treatment plants) and discharge types (e.g. pesticides).
- 2.8 It also sets in place policies for managing the groundwater resource. These are appropriately “high level” and thereby maintain flexibility for subsequent regional plans such as the PNRRP to adopt a range of more focused methods for managing groundwater quality. This includes the ability to enforce discharge standards and land use controls.
- 2.9 Also relevant is PC1 to the RPS which has already been noted above. This was decided in December 2009 but is current the subject of various appeals to the Environment Court. PC1 establishes a “metropolitan urban limit” around Greater Christchurch and a

number of identified greenfields development areas. The MAIL land was included in the metropolitan urban limit as decided by Ecan after hearing submissions.

3.0 The Proposed Natural Resources Regional Plan and Variation 6

The PNRRP

- 3.1 The PNRRP addresses the “sustainable management of natural resources in the Canterbury region” and in doing so deals with issues including water quality and quantity, air quality, soil conservation, tangata whenua issues and the beds and margins of lakes and rivers (all being core regional council responsibilities).
- 3.2 Chapter 1 (“Overview”) and 3 (“Air Quality”) are partially operative and Chapter 2 (“Ngai Tahu and the management of natural resources”) is fully operative. Chapters 4 – 8 were added by Variation 1 (“V1”) which was notified in 2004. Chapter 4 (“Water Quality”) is relevant to this hearing.
- 3.3 Subsequently Chapter 4 was amended by V6, the subject of this hearing. Drawing from the Ecan website¹:

“V6 introduces a new issue, objective, policies and methods, including land use rules and amendments to the existing water quality zone boundaries, relating specifically to the Christchurch Aquifer System”.

V6 (as Notified)

- 3.4 V6 was notified on 28 July 2007, and its stated purpose is outlined on page 3 of the notified document:

“The purpose of this variation is to:

- 1. To better give effect to the Canterbury Regional Policy Statement.*
- 2. “Clarify and reinforce the water quality objective in relation to the Christchurch Groundwater System.*
- 3. “Make more explicit the policy framework to achieve this objective.*

¹<http://ecan.govt.nz/publications/Pages/variation-6.aspx> (accessed on 19 March 2010)

4. *“Ensure that there is a comprehensive set of methods to implement and achieve the objective and policies.*
5. *“Better align the Christchurch groundwater zone boundaries with areas of intrinsic hydrogeological vulnerability of the Christchurch Groundwater System”.*

3.5 Following on from point 5 above V6 amends the former “Christchurch Recharge Zones”, and renames them “Christchurch Groundwater Protection Zones”. The MAIL land is located within the “Groundwater Protection Zone 1” (“GPZ1”) (see **Appendix 1** of this statement of evidence) which is described thus in Objective WQL4 which was added by V6:

“Zone 1 (High intrinsic hydrogeological vulnerability: this zone covers the area of the Christchurch Groundwater System of high hydrogeological vulnerability and is shown on Map Volume Part 1 – Planning Maps. It comprises a significant portion of the land surface recharge area for the Christchurch Groundwater System. Substantial areas of this land have very thin soils over generally highly permeable gravel. Groundwater varies in depth from less than 1 metre below ground level near the Waimakariri River to greater than 10 metres below ground level near West Melton. It is characterised by the absence of an adequate surface confining layer and the absence of upwards groundwater pressure. As such, contaminants can move downwards into the groundwater system with minimum natural treatment”.

3.6 The MAIL land is located in the general GPZ1, however four GPZ1 “sub-zones” apply to other parts of Christchurch City where existing District Plan zonings and designations are already in place. These include sub-zone 1A which recognises existing urban zonings² and sub-zone 1C which recognises the “Special Purpose Airport Zoning” for Christchurch International Airport (in the Christchurch District Plan).

3.7 The soil and groundwater characteristics of the sub-zone areas are the same as the GPZ1 generally (i.e. they are all located over the unconfined aquifer), but the sub-zone areas are exempt from some of the strict rules applying to the general GPZ1, ostensibly in recognition of their existing District Plan zonings and a desire not to unreasonably impede those zonings. For example, Rule WQL64 which deems all activities in the general GPZ1 as non-complying activities does not apply in any of the sub-zones.

² In the notified version of V6 sub-zone 1A also applies to additional areas within the metropolitan urban limit in the RPS / PC1 at that time (28 July 2007)

Similarly Rules WQL65 – 66 which deem the use and storage of hazardous substances in the GPZ1 and sub-zones 1A and 1B as prohibited activities do not apply to sub-zones 1C and 1D.

3.8 There is also a GPZ2 and 3 – GPZ2 being a transition area between areas of high and low groundwater vulnerability, and GPZ3 being a lower risk area. I understand that prior to V6 the MAIL land was within the equivalent of the GPZ2 (“Groundwater Recharge Zone 2”).

3.9 V6 introduces a new “issue”, objective, nine policies and three new rules, as well as material and consequential amendments to existing policies and rules. These are all driven by Objective WQL4 which states:

“Objective WQL4: The quality of Christchurch groundwater

- (1) “The quality of Christchurch is maintained or enhanced in its overall high quality state in the long term.*
- (2) “Christchurch groundwater subject to existing localised contamination will be improved to achieve the maintenance and enhancement of its overall high quality state”.*

3.10 Of particular relevance are the following provisions:

- Policy WQL14 – “General control of activities” (in the GPZ1 and sub-zones),
- Policy WQL15 – “Control of hazardous facilities (in the GPZ1 and sub-zone 1B),
- Policy WQL16 – “Control of rural production” (in the GPZ1 and sub-zones),
- Policy WQL17 – “Control of the intensity of activities within Christchurch Groundwater Protection Zones 1 and 2”
- Rule WQL64 – “Use of land within the Christchurch Groundwater Protection Zone 1 – non-complying activity”
- Rule WQL65 – “Use of land (hazardous substances) within the Christchurch Groundwater Protection Zone 1 – prohibited activity”
- Rule WQL66 – “Use of land (hazardous substances) within the Christchurch Groundwater Protection Sub-Zones 1A and 1B – prohibited activity”

(these provisions are shown in full at **Appendix 4** to this statement of evidence)

- 3.11 The policies emphasise the importance of mitigating and avoiding adverse effects on groundwater by employing “best practice” management techniques and treatment systems. However, they also emphasise the need for careful use of land to minimise risk to groundwater. For example, Policy WQL16 establishes that rural productive land uses “*must not be intensified*” where these increase the potential for effects on groundwater, and Policy WQL17 states that “*development must only occur at intensities provided for as a permitted or controlled activity in the City of Christchurch District Plan or Selwyn District Plan on 1 August 2007...*”.
- 3.12 This approach is carried through into the rule section through use of land use rules to assist in managing groundwater quality. These include rules WQL64 – 66 which are noted above. Of particular relevance is rule WQL64 which applies non-complying activity status to all activities in the GPZ1 which were not established or authorised on or before 1 August 2007, regardless of the actual or potential effects they may have on groundwater quality.

NIT Submission

- 3.13 On 31 October 2007 NIT made a submission on V6 covering a large consolidated land area including the land now in MAIL ownership and further land holdings to the south and east. The key areas of relief sought in that submission were as follows:
- in the first instance that the variation be rejected in its entirety,
 - that GPZ1 is an inappropriate zoning for the land as there is no scientific evidence to justify changing its previous “Groundwater Recharge Zone 2” zoning,
 - alternatively the new “Sub-Zone 1A” would be more appropriate because the NIT land (now MAIL land) has been subject to prior planning investigations which suggest that the land is most appropriate for urban activities,
 - that V6 should recognise that different activities pose different levels of threat to the groundwater resource and this should be reflected in the provisions,

- that V6 imposes restrictions on intensive agricultural uses, and that where agricultural land is already divided into small blocks these restrictions are unreasonable because they prevent the productive use of the land,
- that rule WQL64 be removed, and
- a range of other consequential amendments consistent with the above points also be made.

(a full copy of NIT's original submission is included as **Appendix 5** to this statement of evidence)

Officer's Report

3.14 The officer's report rejects most of the relief sought in NIT's submission. The difference of approach between that proposed in NIT's submission and that in the officer's report is probably best summed up in the following paragraph found on p125 of the officer's report:

"2. Avoid unnecessary risk

"...some submitters seek a management approach which allows activities subject to good practice to minimise risk, and replaces the avoidance approach even in circumstances where the consequences of contamination are high. This is not accepted for a groundwater resource which provides drinking water (and all other uses) to the people of Christchurch. The approach in Policy WQL 14 recognises that the Christchurch groundwater system as a whole is a source of potable water. The value of this resource is so high and the consequences of pollution so great that even very low risk activities should not be allowed. This approach is modified only for existing activities (a pragmatic weighing of effects on these activities, e.g. airport) or low vulnerability zones (where the risk of contamination from overlying land uses is not possible so long as the natural barriers are not compromised)".

3.15 However, two parts of NIT's submissions are "accepted in part", these relate to:

- the need for V6 to recognise and appropriately cater for further land that will become zoned for urban purposes (i.e. apply sub-zone 1A status) – at p175 the officer's report states that the urban limits in the RPS "is currently being changed" and seeks to provide for new urban areas created by these changes, and

- the removal of rules WQL64 – 66 – the officer’s report recommends a revised rule structure which includes the removal of these rules.

3.16 The officer’s report also recommends changes to the policies of V6. Specifically the complete replacement of policies WQL13 – WQL21 with new policies WQL13 – WQL19. Recommended policies WQL13, 14 and 16 are of most relevance to the MAIL land and relevant passages from those policies are included as **Appendix 6** to this statement of evidence.

3.17 The recommended removal of rules WQL64 – 66 is accompanied by an explanation that the rules have been “reformatted” and that with this reliance will fall back upon “parent rules” dealing directly with discharges rather than seeking to control land use as well. In respect of WQL64 the reasons given for this (at p276 of the officer’s report) is as follows:

“The land use intensification over the unconfined aquifer recharge zone 1 that the rule was to control included landfills, hazardous facilities, irrigation leading to intensification of agriculture, mineral extraction, and urban activities. The reformatting of rules has now dealt with all these activities (and associated activities such as stormwater discharges) in their “parent rules”. Therefore, this Rule WQL64 is be [sic] deleted (see Amendment WQLV6.77)”.

3.18 The “parent rules” in the PNRRP of greatest relevance to the MAIL land and the activities proposed there are as follows:

- Rule WQL5 – “Discharge of stormwater containing contaminants onto or into land – permitted activity”,
- Rule WQL8 – “Discharge of contaminants onto or into land from an individual on-site sewage and wastewater treatment and land application system – permitted activity”,
- Rule WQL57 – discretionary activity consent is required under this rule if compliance cannot be achieved with Rule WQL5, and
- Rule WQL61 – non-complying activity consent is required under this rule if compliance cannot be achieved with Rule WQL8.

- 3.19 These discharge rules are conventional in the sense that they include conditions focusing on the quality of discharges and employing measures to minimise the discharge effects of wastewater and contaminated stormwater.

Discussion on V6, the Officer's Report and the Proposed MAIL Development

- 3.20 As noted in the introductory section of my evidence MAIL is pursuing an urban future for its land which is located over GPZ1. In December 2009 it lodged a private plan change application for a large scale mixed-business development on its land and some adjoining land (a consolidated parcel of approximately 22 hectares). Shortly thereafter Ecan released its decisions on PC1 to the RPS which included locating this land within the metropolitan urban limit and identified it as suitable for business purposes (though as noted in my paragraph 1.6 PC1 is subject to numerous appeals to the Environment Court).
- 3.21 MAIL's private plan change proposal provides for retail, offices, visitor accommodation and some other activities on the land within a sophisticated planning framework. This includes a double layer resource consent process and widespread use of restricted discretionary activity status directed to achieve high quality, integrated development outcomes. It is intended that the development be serviced by an on-site stormwater disposal system and connection to the reticulated sewage network (though due to existing constraints in CCC's sewage network an interim on-site sewage solution may be required in the early stages of development).
- 3.22 In the PC1 hearings and again in his evidence for this hearing Mr. Fraser has outlined that the effects of these activities on groundwater can be appropriately avoided, remedied and mitigated through use of modern treatment technologies and best practice management techniques. He also notes that the main activities proposed are not "high risk" activities when it comes to groundwater contamination.
- 3.23 However, V6 as notified imposes a particularly restrictive regime on all activities located over GPZ1 (i.e. not in any of the sub-zones) and not authorised by focused District Plan zonings as at 1 August 2007. This includes a traditional discharge permit rule framework

but with an additional land use consent rule framework (rules WQL64 – 66) which severely restrict (WQL64) and even prohibit (WQL65 – 66) activities regardless of any risk mitigation or management measures that could be employed.

- 3.24 This restrictive regime applies to the MAIL land. This is despite the evidence of Mr. Fraser (stating that effects on groundwater can be appropriately avoided, remedied and mitigated) and a range of other analyses which taken together demonstrate the land to have significant urban potential. Similar scenarios are likely to exist elsewhere in Christchurch, demonstrating the potentially sterilising effect of V6 and illustrating the need to be absolutely rigorous in reviewing and assessing the necessity to be prescriptive in the PNRRP.
- 3.25 By way of comparison, areas already zoned in the Christchurch and Selwyn District Plans for particular purposes (e.g. airport purposes or mineral extraction) and additional areas which were located within the metropolitan urban limit on 28 July 2007 have been expressly provided for through the use of “sub-zones” which are exempt from some of the most restrictive policies and rules, despite having the same soil and groundwater characteristics as the general GPZ1.
- 3.26 In addition to the land use controls the V6 policies and rules reflect a desire on the part of Ecan to promote an approach whereby “best practice” wastewater and stormwater systems are employed to minimise impacts on the groundwater resource. I support this approach.
- 3.27 The officer’s report recommends removal of land use rules WQL64 – 66 and complete redrafting of the policies, but also carries forward elements of the approach of V6 as notified. The redrafted policies confirm the approach of linking to the development rights established in District Plans as at 1 August 2007 (over two and a half years ago) and the development rights created by the alignment of the metropolitan urban limits in the RPS / PC1 (even though these are not well articulated in the RPS). However, with the removal of rules WQL64 – 66 the scope of the remaining rule framework is reduced, and it is not clear how these policies can actually be enforced.

4.0 Planning Assessment

Variation 6

4.1 Taking into account the context established in the previous sections of my evidence it is my assessment that V6 creates an untidy and uncertain framework for managing effects on groundwater quality for the following reasons:

- for GPZ1 the application of Rule WQL64 (non-complying activity) to all activities not authorised or established as at 1 August 2007 creates considerable uncertainty without taking any account of the actual and potential effects that different activities pose to groundwater,
- the exemptions for sub-zones 1A – 1D (even though these areas have the same soil and groundwater characteristics) which in a resource management sense undermines the primary purpose of V6 which is to protect groundwater quality in Christchurch,
- it leans heavily on the Christchurch and Selwyn District Plan zonings and provisions as they were at 1 August 2007 even though these are already over two and a half years old and will continue to change into the future,
- further, the reliance on these District Plans in terms of activities that can be established as “permitted or controlled activities” does not take account of the increasing sophistication of District Plan controls (for example those put forward in MAIL’s private plan change application),
- V6 also leans heavily on the development rights created by the RPS / PC1 even though this is the subject of appeal, may change materially as a result of that process, and in respect of business land does not specify in any detail what these development rights are.

Alternative Approach

4.2 I acknowledge that pursuant to s30 RMA Ecan is empowered to manage groundwater quality by controlling land uses and that regional councils in other parts of New Zealand

do so already. In order to do this Ecan / V6 leans heavily on the Christchurch and Selwyn District Plans. Ostensibly this is to recognise that where land has been identified as appropriate for urban activities in these Plans (e.g. the Christchurch International Airport) that V6 will not compromise their directions.

4.3 My view is that this approach is not appropriate and that V6 should adopt a more direct and responsive (“risk based” or “effects based”) approach to managing groundwater quality. Such an approach would encompass six main elements:

1. removal of all references in policies and rules which link to development rights or expectations in District Plans and the RPS,
2. primary emphasis on discharge permit rules for managing effects on groundwater (allowing site specific soil and groundwater characteristics to be considered alongside proposed discharge management measures and treatment technologies),
3. some land use rules which apply to high risk activities (e.g. timber treatment facilities and service stations),
4. a general approach to these rules where the consent status corresponds to risk / effect on groundwater quality,
5. continuation of the existing emphasis on best practice treatment technologies and management practices, and
6. groundwater protection zones based on soil / groundwater characteristics only (i.e. have no exemptions for areas already “zoned” in District Plans and remove the existing GPZ1 “sub-zones”).

4.4 This approach would effectively “unbundle” V6 from the urban planning context in Christchurch (which is currently very fluid) and allow it to focus exclusively and without distraction on the issue of groundwater quality.

4.5 Also, In respect of my point 2 above, it is likely that some existing discharge based rules in the PNRRP could be utilised within this revised framework I am recommending.

- 4.6 Risk-based approaches like this are already employed elsewhere in New Zealand. For example, in the Wellington Region which also has aquifers susceptible to contamination, the *Regional Plan for Discharges to Land* adopts a risk-based approach based around extensive use of discharge rules. These fall into four main categories being “greywater and stormwater”, “sewage”, “landfills, rubbish dumps and tips”, “agricultural contaminants”, “hazardous substances” and “activities not covered by other rules”. Within each category are a set of rules (22 in total) dealing with particular activities (e.g. “stock dip effluent”) and specifying performance standards relating to the quality and quantity of the discharge, site soil and groundwater characteristics, and the management / treatment systems employed. I am recommending that this sort of approach be adopted for V6 with the addition of some safeguard (land use) rules dealing specifically with high risk activities (see point 3 of my paragraph 4.3 above).
- 4.7 In my view this approach is in keeping with the “effects based” direction of the RMA generally, and is most appropriate in terms of the cost, benefit and efficiency tests outlined in s32 RMA. By way of illustration if applied correctly it would subject high risk activities to rigorous consent processes and allow very low risk activities (e.g. fully reticulated residential developments) to negotiate less rigorous consent processes (and perhaps be established “as of right” in some cases).
- 4.8 Implementing this approach will require some significant redrafting of V6 in its current form. This would also provide the opportunity to make the provisions more succinct and navigable by reducing the duplication of text across the provisions as a whole.

5.0 Summary, Conclusions and Recommendations

- 5.1 V6 attempts to control effects on groundwater through a combination of discharge permit and land use consent rules.
- 5.2 The land use consent rules and overriding policies link to rules in the Christchurch and Selwyn District Plans and the RPS / PC1. Drawing on those links V6 applies different groundwater controls to different areas of Christchurch even though these may have the same soil and groundwater characteristics (i.e. the GPZ1 “sub-zones”).

- 5.3 The urban planning context in Christchurch is currently very fluid, with the RPS / PC1 currently subject to appeal and District Plan changes (Council and privately led) likely to continue coming forward. Creating linkages to and relying upon provisions in these documents for the purpose of controlling effects on groundwater is not recommended. In my view it creates risk and uncertainty in the groundwater planning framework without offering any tangible rewards.
- 5.4 In fact V6 in its current (notified) form, particularly through the application of WQL64, has the potential to sterilise the future development of land in isolation from other planning documents, and even where the effects on groundwater can be avoided, remedied or mitigated.
- 5.5 For these reasons I recommend an alternative “effects based” (or “risk based”) approach which unbundles V6 from the development rights in District Plans and in the RPS / PC1. This approach should be underpinned by the six elements listed in my paragraph 4.3. I believe this approach is more appropriate in terms of s32 RMA and would establish a more appropriate consent process for activities over the GPZ1 such as those proposed by MAIL, which as outlined by Mr. Fraser will impose effects on groundwater that can be appropriately avoided, remedied or mitigated.
- 5.6 This approach would require some significant redrafting of V6, but would also include the removal of rule WQL64 (as recommended in the Officer’s report), can likely utilise existing discharge permit rules already in the PNRRP, and the general groundwater protection zones (1, 2 and 3).

Andrew Macleod
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26 March 2010

Appendix 1 – Groundwater Protection Zone 1 Map showing MAIL land

Appendix 2 – Relevant sections of Parts 2, 4 and 5 RMA

Appendix 3 – Relevant passages from Chapter 9 of the RPS (“Water Quality”)

Appendix 4 – Relevant passages from provisions in V6 as notified

Appendix 5 - National Investment Trust Submission dated 31 October 2007

Appendix 6 – Relevant passages from policies recommended in the Officer’s report