

**Application CRC181649
To renew water permit CRC169648**

and

**Application CRC181686
To take and use surface water**

By Mr N J & Mrs L M Harris & Harakeke Nominees Limited

Section 42A Officer's Report of Nicola Duke & Rachael Sare

Date: 06 June 2023

INTRODUCTION

1. Mr N J & Mrs L M Harris & Harakeke Nominees Limited (the applicant) has applied for the following resource consents:
 - a. CRC181649 – renew water permit CRC169648 to take and use surface water; and
 - b. CRC181686 – to use water taken under CRC181649.
2. CRC169648 authorises the abstraction of surface water from the Lower Hurunui from galleries N33/0431, N33/0432, N33/0433 and N33/0434. In processing this application, the applicant has confirmed the only active and operational intake infrastructure is N33/0432 and N33/0434. This was confirmed with an audit of the site undertaken by Waterforce. There is no infrastructure active for N33/0431 and N33/0433 as shown in figure 1 below. The applicant is not seeking to maintain those abstraction points.

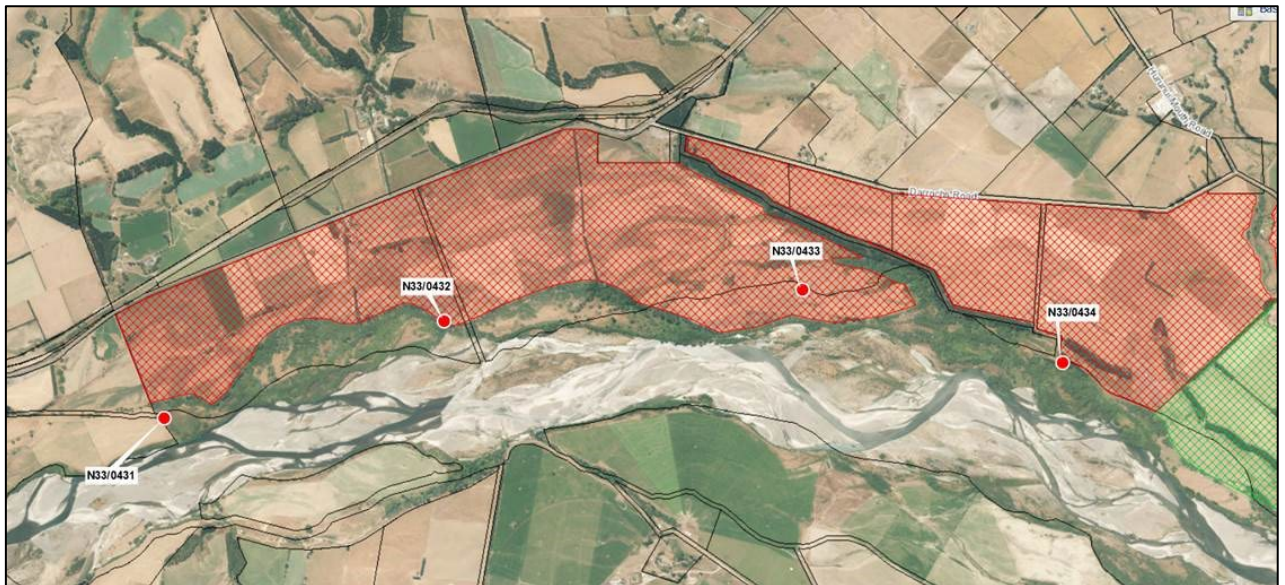


Figure 1: Location of abstraction points as authorised by CRC169648.

3. Water may be abstracted at a combined rate not exceeding 206 litres per second, a daily volume not exceeding 17,000 cubic metres and a volume not exceeding 1,904,000 cubic metres between 1 July and the following 30 June.

4. Water may be used under this permit for spray irrigation of crops and pasture, for grazing stock excluding milking dairy cows on the area of land shown on Plan CRC142672.
5. CRC169648 expires on 26 February 2017. The conditions of this consent are attached as Appendix 1.
6. The area demarcated in Plan CRC142674 is referred to as the 'Wharenui Block'.
7. An application for a renewal of CRC169648 was lodged on 16 October 2017, within the 3-6-month period prior to expiry of the consent. As such the continued use of the resource by the applicant, under s124 of the RMA, is at the discretion of the Canterbury Regional Council. Approval for the continued use of the resource was approved by the Canterbury Regional Council (see HPRM C17C/183354).
8. The renewal application will align the existing minimum flow requirements with the Environmental Flow and Allocation Regime for the Lower Hurunui mainstem as specified in the Hurunui and Waiau River Regional Plan (HWRRP).
9. The applicant also seeks a change of conditions to CRC181649 (the renewal application); this seeks to increase the irrigation area from 341 ha to:
 - i. 300 ha on the Wharenui Block; and
 - ii. 70 ha on the McLaughlan Block.
10. A farming land use consent has been lodged (CRC181650) concurrently with this application and is being processed separately.
11. Stephen Douglass of GHD Limited (the consultant) has prepared the AEE on the behalf of the applicant. The AEE can be viewed at HPRM C17C/164719-4.
12. A site visit was not undertaken by during the processing of these consent applications however it is noted that a site visit was undertaken in February 2018 by Canterbury Regional Council (CRC) Principal Strategy Advisor Land Mr Ian Brown, CRC Senior Land Management Advisor Mr Michael Bennett and CRC Consent Planner Emma Barr in association with the farming land use application CRC181650.

DESCRIPTION OF THE PROPOSED ACTIVITY

13. Refer to Section 2 of the AEE (Page 5), which accompanied this application for a more detailed description.

CRC181649 – Renewal Application

14. Renew CRC169648 (CRC181649) authorising:
 - a. The abstraction of 206 L/s of surface water from N33/0432 and N33/0434;
 - b. A maximum daily volume of 17,000 cubic metres;
 - c. A maximum volume of 1,904,000 cubic metres between 1 July and the following 30 June; and
 - d. For the irrigation of the Wharenui Block (341 hectares)

CRC181686 Take and Use Water Permit

15. CRC181686 proposes to increase the area of irrigation to include the 111 ha McLaughlan Block. It is noted that this consent will authorise irrigation of 300 ha of the Wharenui Block and 70 ha of the McLaughlan Block.
16. Surface water will be abstracted:

- a. from N33/0432 and BV26/0004;
 - b. at a maximum rate of 206 L/s
 - c. with a maximum daily volume of 17,000 cubic metres;
 - d. with a maximum volume of 1,904,000 cubic metres between 1 July and the following 30 June; and
 - e. For the irrigation of the Wharenui Block (111 hectares of the 341 hectare block) and the McLaughlin Block (70 hectares)
17. If
18. granted, CRC181686 will replace CRC181649.
- In general:
19. Both applications will include updated minimum flow requirements to be in line with the HWRRP.
20. The location of the Wharenui and McLaughlin Blocks is illustrated in Figure 2 below.

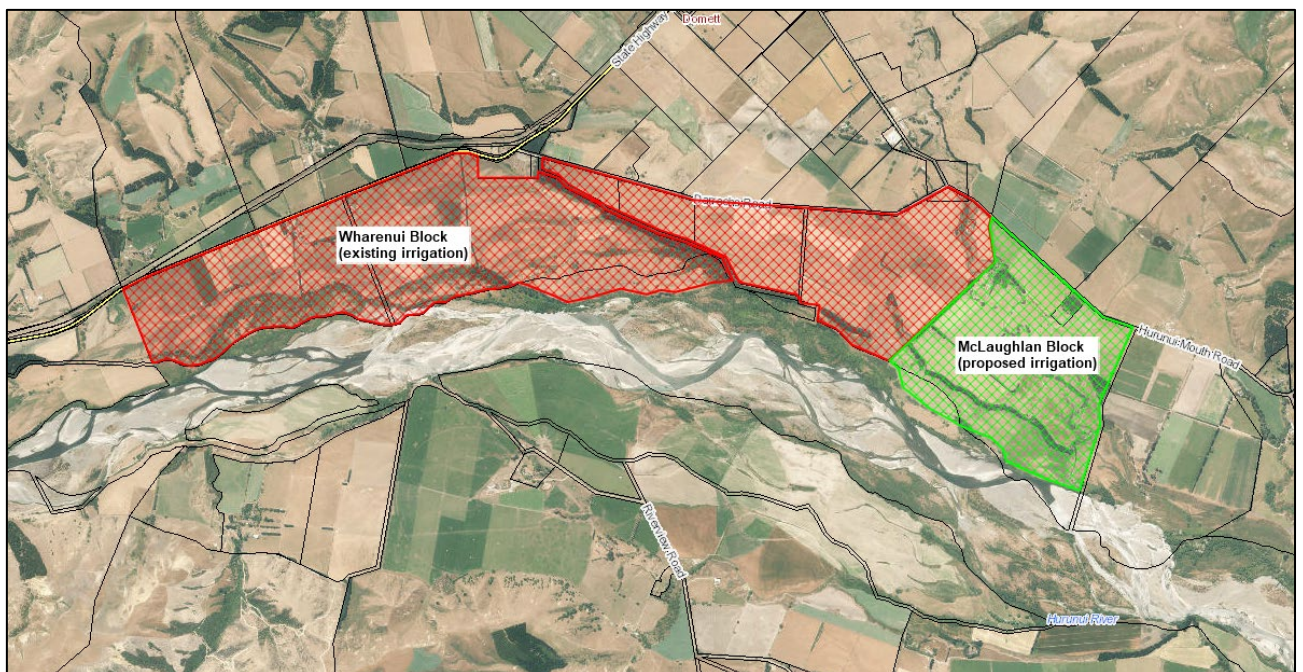


Figure 2: Location of existing and proposed irrigation areas

21. It is noted that the applicant also owns and operates a large area of land to the north of the areas identified in Figure 2 above. This block is referred to as the Glenturret Block and is not included in either consent in this report.
22. No changes are proposed to the abstraction rate or volume.
23. The applicant did not specify a duration as the Hurunui Waiau River Regional Plan has policies which directly influence and guide durations of water permits.

DESCRIPTION OF THE AFFECTED ENVIRONMENT

24. The applicant has provided a description of the affected environment in Sections 2.1-2.4 of the AEE (Page 8) which accompanied the application.

25. A summary of the applicant's description of the affected environment with additional information obtained from Environment Canterbury GIS is noted below:

Application Site

- a. The site is adjacent to and slopes down towards the Lower Hurunui River mainstem on the Domett Plains;
- b. The application site is in:
 - i. the Hurunui-Waiau Nutrient Management Zone;
 - ii. the Domett Groundwater Allocation Zone;
 - iii. the Lower Hurunui mainstem Surface Water Allocation Zone; and
 - iv. is partially covered by the River Zone (all bores are located within the identified River Zone area).
- c. Galleries N33/0432 and N33/0434 are located downstream of the SH1 flow recorder (noted as Lower Hurunui mainstem);
- d. Table 1 of the HWRRP specifies environment allocation and flow regimes for A permits in the Lower Hurunui as follows:

A-permits: a minimum flow of 15 cubic metres from September to April and 12 cubic metres from May to August with an allocation limit of 2,030 litres per second as measured at State Highway 1;
- e. There are a number of ephemeral streams on the property that drain the hill country, which typically flow in response to rainfall runoff events. The largest of these streams is Honeymoon Lodge Creek which flows through the south east corner of the McLaughlan Block. NIWA Water Resources database estimates the mean annual flow associated with Honeymoon Lodge Creek is in the order of 55 litres per second.
- f. Galleries N33/0432, and N33/0734 are located within the River Zone and are located down gradient from any ephemeral waterways on the property;
- g. There are numerous aerially identified wetlands on the property;
- h. The property lies within the rohe of Te Runanga o Kaikoura. There are no silent files in the vicinity of the property.

Monitoring Sites

- f. The application uses NIWA monitoring data for Nitrogen and Phosphorus loads in the Hurunui River;
- g. Periphyton information is obtained from monitoring point SQ34420 downstream of the application site;

Surrounding environment

- i. The Hurunui River is classified as a Statutory Acknowledgement Area
- j. The Hurunui River is a wetland of regional importance, is a site of special wildlife significance, and is an important river for native river birds and open water habitat.
- k. The Hurunui River has a high degree of naturalness and is an area of regional importance in the upper reaches.

- l. The Hurunui River mouth is a wetland of high significance (Hurunui River Hāpua) and is an area of significant natural and physical values (Schedule 2 of the Regional Coastal Environment Plan);
- m. There are no freshwater bathing sites, or salmon or inanga spawning sites, within the property or 1,000 metres of the property
- n. There are no other cultural, historic or conservation values located within or adjacent to the property.
- h. The Hurunui Lower Rural Water Scheme extraction point is located 425 m south of the property boundary with the Protection Zone extending both east and west directly in front of the property (and covering the property in part);
- i. There are two other drinking water protection zones located on the Hurunui River, with the nearest of these located approximately 850 metres south of the application site;
- j. The underlying aquifer is unconfined/semiconfined;
- k. The following biodiversity/conservation features are noted on the Waiau River:
 - i. A NZ Fish Database site is located upstream of the application site;
 - ii. The Hurunui River is identified as a
 - 1. Biodiversity Priority Area,
 - 2. a Site of Special Wildlife Significance (DOC),
 - 3. Native Bird Habitat (DOC)
 - 4. Significant Vegetation of Water Bodies;
 - 5. Wetlands of Representative Importance (DOC); and
 - 6. Land of National Significance (DOC);
 - iii. There are parcels of DOC Public Conservation Land located immediately upstream of the application site;
- 26. In terms of water quantity, the Upper Waiau River 'A block' allocation limit is 590 litres per second, there is no B or C block allocation. The A block allocation is currently fully allocated. As there is no increase in rate, the application will not result in a change to the allocation limit.
- 27. The minimum flow for A permits on the Upper Waiau River is 20.0 cubic metres as measured at Marble Point.

CONSULTATION

Interested Parties Informed by the CRC

- 28. Environment Canterbury advised the following parties of the proposal on 25 September 2017:
 - a. Hurunui District Council;
 - b. Department of Conservation;
 - c. Forest and Bird;
 - d. Fish and Game - North;

- e. Canterbury District Health Board
 - f. Kaikoura Rūnanga; and
 - g. Te Runanga o Ngai Tahu.
29. Any responses were requested from the parties above by 2 October 2017.
30. To date no responses have been received.

Consultation Carried out by the Applicant

31. The application states, in Section 7, that no persons are considered affected by this proposal. For this reason, the applicant has not undertaken any consultation.
32. The applicant has provided written approval (under s95E of the RMA) from the landowner of the McLaughlin Block (the additional irrigation block). This can be viewed at file ref C17C/164719-6.
33. The ownership of the McLaughlin Block has changed during the processing of these applications. Written approval has been obtained from the current land owner (file reference C23C/23867).

LEGAL AND PLANNING MATTERS

The Resource Management Act 1991

34. Section 14 of the RMA states that:
- (1) *No person may take, use, dam, or divert any—*
 - (a) *Water (other than open coastal water); or*
unless the taking, use, damming, or diversion is allowed by subsection (3).
 - (3) *A person is not prohibited by subsection (1) from taking, using, damming, or diverting any water, heat, or energy if—*
 - (a) *The taking, use, damming, or diversion is expressly allowed by a rule in a regional plan [and in any relevant proposed regional plan] or a resource consent; or*
 - (b) *In the case of fresh water, the water, heat, or energy is required to be taken or used for—*
 - (i) *An individual's reasonable domestic needs; or*
 - (ii) *The reasonable needs of an individual's animals for drinking water, — and the taking or use does not, or is not likely to, have an adverse effect on the environment; or...*
 - (e) *The water is required to be taken or used for fire-fighting purposes.*
35. As the activity is not expressly allowed by a rule in a regional plan, a resource consent is required.
36. Consents are required for the following activities:
- a. Taking water; and
 - b. Using water.
37. The applicant is also seeking continuation of the current resource consent CRC169648, under section 124B of the RMA. When applying for a new resource consent of an existing activity, section 124B entitles priority to existing consent holders over any other application competing for the same resource.
38. Section 124B of the RMA applies when the following three provisions are met:

- a. A person holds an existing resource consent to undertake an activity under any sections 12,13, 14 and 15 using a natural resource,
 - b. A person makes an application affected by section 124; and
 - c. The consent authority receives one or more other applications for a resource consent that:
 - i. are to undertake an activity using some or all the natural resource to which the existing consent relates; and
 - ii. could not be fully exercised until the expiry of the existing consent.
39. In response to the required provisions of section 124B, the applicant meets these requirements for the following reasons:
40. The applicants existing consent, CRC169648, authorises the take and use of water under s14.
41. The applicant can meet the requirements of section 124 because:
- a. The existing resource consent is due to expire on 26 February 2018;
 - b. The application for resource consent has been made for the same activity;
 - c. The application was made to the appropriate consent authority; and
 - d. The application was made between three and six months before the expiry of the existing consent, and continuance therefore at the discretion of the Canterbury Regional Council (CRC).
42. The CRC exercised its discretion afforded under section 124(2)(e) and allowed the holder to continue operating under their existing consent. A letter authorising this continuation was issued on 16 September 2019 and can be seen in file ref C17C/183354.
43. Section 124B(4) specifies that the applicant must be able to show resource efficiency, industry good practice, and have had no previous enforcement orders for the relevant consent.
44. I consider the application satisfies the requirements under s124B(1) and s124B(4) of the RMA as the application has been received within a reasonable time and the application showed that the use will be efficient.
45. As such, the applicant may continue to operate under their existing consent until a new consent is granted and all the appeals are determined, or a new consent is declined, and all appeals are determined.
46. In accordance with the requirements of s124 the applicant has also provided an indication of the value of investment (file ref: C17C/16479-10). This shows the property as having a capital value of \$4,480,000. There has also been an investment of more than \$2,000,000 on irrigation and fencing.

National Environmental Standards

NES – Freshwater

47. The National Environmental Standard Freshwater (NES-F) came into effect on 3 September 2020.
48. The Applicant has provided a full assessment against the NES-F, available at file reference C21C/82240 and notes the following points:

- a. The farm is used for sheep and beef grazing. There is no intensive dairy farming therefore rules around the intensification of irrigation area do not apply (regulation 20 of the NES-F).
 - b. Sub-part 3 of Part 2 (intensive winter grazing) comes into force on 1 May 2022.
 - c. Sub-part 4 of Part 2 (application of synthetic nitrogen fertiliser to pastoral land) comes into force on 1 July 2021.
49. Given the above there are no applicable regulations in Part 2 that apply to the application.
50. The relevant rules in Part 3 of the NES-F relate to wetlands and are assessed as follows:

Rule/Regulation	Compliance
50 – Permitted Activity	(1) Vegetation clearance outside, but within a 10 m setback from, a natural wetland is a permitted activity if it— (2) Earthworks or land disturbance outside, but within a 10 m setback from, a natural wetland is a permitted activity if it— N/A No earthworks or vegetation clearance is proposed in association with this application.
52 – Non complying activity	(1) Earthworks outside, but within a 100 m setback from, a natural wetland is a noncomplying activity if it – a. results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and b. does not have another status under any of regulations 38 to 51. (2) The taking, use, damming, diversion, or discharge of water outside, but within a 100 m setback from, a natural wetland is a non-complying activity if it – a. results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and b. does not have another status under any of regulations 38 to 51. Yes. (1) No earthworks are proposed. (2) Surface water abstraction point N33/0432 is located within 100 m of a potential wetland. However, the water take is down gradient of the potential wetland, at a lower elevation and within the Hurunui River (i.e. water level at the point of take is subject to the flow regime of the Hurunui River). For these reasons it is considered highly unlikely that the take will result in drainage from the wetland.
54 – Non complying activity	The following activities are noncomplying activities if they do not have another status under this subpart: (a) vegetation clearance within, or within a 10 m setback from, a natural wetland: (b) earthworks within, or within a 10 m setback from, a natural wetland: (c) the taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland. No. The use of water within 100 metres of a wetland falls within the ambit of this regulation. The applications propose to use water for irrigation within 100 metres of wetlands on the property; consent is therefore required under Regulation 54.

51. As per the above assessment, consent is required for a non-complying activity under Regulation 54 of the NES-F.

NES for Source of Human Drinking Water (NES-SHDW)

52. The NES-SHDW is intended to reduce the risk of contaminating drinking water sources such as rivers and groundwater. Contaminants such as microorganisms can pose a risk to human health when they enter drinking water supplies, and that water is then consumed.
53. The RMA requires regional councils to consider the effects of activities on drinking water sources in their decision making. I have therefore assessed the land use against the regulation of the NES to determine if there is a risk that the supply bore may potentially become contaminated as a result of the farming land use activity.
54. Regulation 6 of the NES defines the type of activity which regulation 7 and 8 applies to.
55. Regulation 6 states:
- Type of activity to which regulations 7 and 8 apply***
- Regulations 7 and 8 only apply to an activity that has the potential to affect a registered drinking-water supply that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year.*
56. Although regulation 7 and 8 of the NES only applies to water and discharge permits, we consider the fundamentals of those regulations will remain appropriate when assessing the risk of the discharge associated with farming land use activities. These guidelines will therefore set out certain requirements and if they cannot be met, a regional council must not grant the consent.
57. Regulation 7 states:
- Granting of water permit or discharge permit upstream of abstraction point where drinking water meets health quality criteria.***
- A regional council must not grant a water permit or discharge permit for an activity that will occur upstream of an abstraction point where the drinking water concerned meets the health quality criteria if the activity is likely to—*
- a. introduce or increase the concentration of any determinands in the drinking water, so that, after existing treatment, it no longer meets the health quality criteria; or*
- b. introduce or increase the concentration of any aesthetic determinands in the drinking water so that, after existing treatment, it contains aesthetic determinands at values exceeding the guideline values.*
58. The Hurunui Lower Rural Water Scheme well (N33/0094) is located 425 metres south of the applicant's boundary.
59. Regulation 11 of the NES defines that Regulation 12 applies to any activity that may have an impact on sources for human drinking water.
60. Regulation 11 states:
- Regulation 12 only applies to an activity that has the potential to affect a registered drinking-water supply that provides no fewer than 25 people with drinking water for not less than 60 days each calendar year.*
61. Regulation 12 of the NES includes a condition on any resource consent relating to an activity or activities which may significantly adversely affect a registered drinking-water supply. Regulation 12 states:
- a. When considering a resource consent application, a consent authority must consider whether the activity to which the application relates may—*

- i. *itself lead to an event occurring (for example, the spillage of chemicals) that may have a significant adverse effect on the quality of the water at any abstraction point; or*
 - ii. *as a consequence of an event (for example, an unusually heavy rainfall) have a significant adverse effect on the quality of the water at any abstraction point*
 - b. *If the consent authority considers that the circumstances in sub-clause (1) applies, and it grants the application, it must impose a condition on the consent.*
 - c. *The condition must require the consent holder to notify, as soon as reasonably practicable, the registered drinking-water supply operators concerned and the consent authority, if an event of the type described in sub-clause (1) occurs that may have a significant adverse effect on the quality of the water at the abstraction point.*
62. Given that the Hurunui Lower Rural Water Scheme falls into the category outlined by Regulation 11 of the NES, as a registered drinking water supply, Regulation 12 of the NES must be considered.
63. Summary
64. The provisions of the NES-SHDW are addressed by the farming land use application CRC181650 which limits potential nutrient discharge into the Hurunui River.
65. The s42A report for CRC181650 states that the applicant has agreed to limit the nitrogen and phosphorus loss from several areas of land to no more than what occurred during the baseline period, including the part of the property within the CDWSPZ.
66. Consent conditions, in line with regulation 12 above are also proposed and the applicant has agreed to these conditions.
67. I consider that the requirements of the NES-SHDW are adequately addressed by CRC181650 and no further assessment is required as part of these applications.

The Hurunui and Waiau River Regional Plan

68. The application site is within the area covered by the Hurunui and Waiau River Regional Plan (HWRRP). The HWRRP applies to the taking, using, damming and diverting of surface water and stream-depleting groundwater (in accordance with section 14 of the Resource Management Act) within the Waiau, Hurunui and Jed River catchments, as shown in Map 1.
69. Section 1.1 of the HWRRP states that '*where an activity is expressly provided for in this Plan, the provisions of this Plan apply. For all other activities, the provisions in the Natural Resources Regional Plan, and/or the Land and Water Regional Plan apply.*'
70. There are no rules in the HWRRP permitting the activity therefore consent under s14 is required.

CRC181649 – renewal of CRC169748

71. Rule 2.3 of the HWRRP applies to the taking, diverting, discharge and use of surface water in accordance with the Environmental Flow and Allocation Regimes as a restricted discretionary activity provided, they meet the requirements of the Rule.

72. The applicant has demonstrated that the renewal application CRC181649 meets the conditions of Rule 2.3 of the HWRRP.

Rule Condition		Will the Proposed Activity Comply?
a	The maximum rate of take, in addition to all existing resource consented takes, including expired resource consents continuing to be operated under section 124 of the Resource Management Act, does not exceed the permit allocation limit in the Environmental Flow and Allocation Regime in Table 1 for that surface water body	Complies. The take complies with the allocation limits for A block water in the Lower Hurunui River.
b	For the Waiau River, when this water is allocated from the B permit allocation limit for irrigation, at least 6m ³ /s shall be taken and used downstream of Stanton River;	Not applicable. Take is from the Hurunui River.
c	The take complies with the minimum flow for the relevant permit allocation limit for the surface water body as set out in the Environmental Flow and Allocation Regime in Table 1, except as otherwise provided for under Policy 2.10;	Complies. The take complies with the allocation limits as set out in Table 1. Plan compliant low flow conditions are proposed.
d	The point of take occurs downstream of: <ul style="list-style-type: none"> i. the confluence of the Hope River with the Waiau River mainstem in the Waiau Catchment; or ii. the confluence of the Hurunui River Mainstem and Surveyors Stream in the Hurunui Catchment 	Complies. The take is downstream of the confluence of the Hurunui River Mainstem and Surveyors Stream in the Hurunui Catchment.
e	Fish shall be prevented from entering the water intake, as set out in Schedule WQN12 of the Natural Resources Regional Plan as contained in Schedule 4 of this Plan; and,	Fish will not enter the intake as it is a gallery separate from the river mainstems.
f	An Infrastructure Development Plan is submitted with any application to take a maximum rate exceeding 100 litres per second.	An infrastructure Development Plan is included as Appendix G and H of the Application (file ref: C17C/164719-11 and C17C/164719-12).
g	In addition, for irrigation takes: The annual volume applied for, provides an 80% or greater application efficiency and reasonable water use in 9 out of 10 years	Complies. The annual volume applied for allows for 80% or greater efficiency and is a reasonable use of water.
h	That are variations or renewals of existing water permits, and where the water will be used for a Change of land use, the use of that water in combination with all other activities will not lead to an exceedance of the nutrient limits in Schedule 1 (taking into account limits specified in resource consents) or the nitrogen toxicity limits in Policies 5.3 and 5.3A.	Not applicable. No change in land use is proposed.
j	That are not variations or renewals of existing water permits, the use of that water in combination with all other activities will not lead to an exceedance of the nutrient limits in Schedule 1 (taking into account limits specified in resource consents) or the nitrogen toxicity limits in Policies 5.3 and 5.3A.	Complies. The use of water will not lead to an exceedance of the nutrient limits in Schedule 1 or Policies 5.3 and 5.3A

73. The matters of discretion that may be considered under Rule 2.3 are:
- i. *the extent to which the proposal addresses Policy 6.5;*
 - ii. *any effects on water quality, including whether the activity in combination with all other activities will result in the nutrient limits in Schedule 1, or the nitrogen toxicity limits in Policies 5.3 and 5.3A being exceeded;*
 - iii. *the reasonable need for the quantities of water sought, the intended use of the water, and the ability of the applicant to abstract and apply those quantities, including whether storage of water is proposed having regard to Policy 8.1;*
 - iv. *the availability and practicality of using alternative supplies of water;*
 - v. *the technical efficiency of the take and use, having regard to Policy 8.1;*
 - vi. *the effects the take or diversion has on any other authorised takes or diversions;*
 - vii. *the reduction in the rate of take in times of low flow, having regard to Policies 2.3 and 2.4;*
 - viii. *the need for and provision of any additional restrictions to prevent the flow from reducing to zero;*
 - ix. *the collection, recording, monitoring and provision of information concerning the exercise of the resource consent having regard to Policy 8.1;*
 - x. *Flow variability, having regard to Policy 2.5; and*
 - xi. *Consent duration, having regard to Policies 9.1 and 9.2.*

CRC181686 – take and use of water

74. It is noted that the requested increase in irrigation area was originally lodged as a change of conditions under s127 of the RMA.
75. During processing of this consent, the judicial review *Aotea Water Action v Canterbury Regional Council*¹ and associated declaration proceedings² provided further clarification on how scope should be determined in light of applications for a change of conditions.
76. Subsequently it was determined that the application to increase the irrigation area was outside scope of the original application and a new water permit was required.
77. This was communicated to the applicant in September 2020 (file ref C20C/157165).
78. The applicant submitted the information required to change the application to a new water permit, this can be viewed at file ref C21C/82240.
79. The proposal is assessed as a restricted discretionary activity under Rule 2.3 of the HWRRP as the applicant considered all conditions could be met.
80. I note that following consultation with CRC Principal Planner David Just it was agreed that this application could incorporate CRC181649 to produce one consent document for the take and use of water over the areas covered by CRC181649 and CRC181686.
81. In July 2022 the Court of Appeal decision *Aotea Water Action v Canterbury Regional Council*³ was released. This confirmed that water permits under s14 must be considered as a 'take and use'. CRC181686 is already being processed under the 'take and use' Rule 2.3. This approach was further confirmed by Dr Philip Burge via email in October 2022 (file

¹ *Aotea Water Action Inc v Canterbury Regional Council* [2020] NZHC 1625 [8 July 2020]

² *Aotea Water Action Inc v Canterbury Regional Council & Ors* [2018] NZHC 3240 [10 December 2018]

³ *Aotea Water Action Inc v Canterbury Regional Council* [2022] NZCA 325 [20 July 2022]

reference C22C225154). This email outlines that there is sufficient allocation in the Surface Water Abstraction Zone to process the application under the 'take and use' rules of the HWRRP provided that CRC181649 is surrendered prior to first exercise of CRC181686. A condition to this effect will be added to CRC181686. k

Other Consents

82. A farming land use application has been lodged (CRC181650). This is being processed separately by Senior Consents Planner Victoria Wilson however it would be beneficial for the consents to be considered as one by the decision maker.

Plan Change 1 to HWRRP

83. Plan Change (PC) 1 to the HWRRP was notified on the 4th May 2019. Submission and the hearings have closed, and no appeals have been lodged. The plan change is therefore beyond challenge. There are no significant changes to the Rules relevant to this proposal as a result of the Plan Change.
84. This consent was lodged prior to the decision of the hearing being released however an assessment of the objectives and policies and any relevant rules has been completed.

Summary

85. The proposal requires the following consents:
- a. Renewal of CRC169648 (CRC181649) – Restricted discretionary activity under Rule 2.3 of the HWRRP
 - b. Increase in irrigation area (CRC181686) – Restricted discretionary activity under Rule 2.3 of the HWRRP
 - c. Irrigation within 100 metres of a wetland – Non-complying under Regulation 54 of the NES-F.
86. The overall status of the applications is therefore for a **non-complying activity**.

RECOMMENDATION ON PUBLIC NOTIFICATION (SECTIONS 95A, 95C & 95D)

87. Section 95A of the RMA specifies the steps the decision maker must follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below:

Step 1: Mandatory Public Notification in Certain Circumstances

88. Mandatory public notification is required as:
- a. The applicant has requested that the application is publicly notified (Section 95A(3)(a) of the RMA);
89. The consultant requested via email on 27th April 2023 (file reference C23C/98816) that CRC181649 and CRC181686 proceed with public notification pursuant to section 95A(3)(a) of the RMA.
90. I note this application will proceed as a bundle with CRC181650 – to use land for farming. A notification decision to publicly notify CRC181650 was made on 03 March 2023.

Public Notification Conclusion

91. Having undertaken the Section 95A public notification tests, the applications shall be publicly notified at the request of the Applicants.

OVERALL NOTIFICATION RECOMMENDATION

92. For the above reasons I recommend that this application is decided on a publicly notified basis. The proposed notification wording is included below. The notification wording includes application CRC181650 as discussed above.

RESOURCE MANAGEMENT ACT 1991

Resource consent applications: CRC181649, CRC181650, CRC181686

Applicant: **Mr N J & Mrs L M Harris & Harakeke Nominees Limited**
Address for service: C/- GHD
PO Box 13 468
Christchurch 8141
Attention: Sean Mooney
Sean.Mooney@ghd.com

Mr N J & Mrs L M Harris & Harakeke Nominees Limited have applied for consents to renew water permit CRC169648, to increase the irrigation area by 70 ha, and to use land for farming (increase in nutrient discharge associated with increase in irrigation area). No additional water has been sought.

The property is located on land of legal description Sections 2-8 Blk XIX Lowry Peaks Survey District and Section 7 Blk XVIII Lowry Peaks Survey District and is situated on Hurunui Mouth Road, Domett.

The following resource consents are being sought:
CRC181649 To take and use surface water (renewal of CRC169648); and
CRC181650 To use land for farming
CRC181686 To take and use surface water (increase in irrigation area)

A duration until 1 January 2035 has been sought.

93. The parties that shall be served notice of the application are as per the attached table (Appendix 1).

Signed:



Date:

06 June 2023

Name:

Nicola Duke

Senior Consents Planner

APPENDIX 1 – DIRECTLY NOTIFIED PARTIES

Party	Address			Email
Hurunui District Council	c/o District Planner	PO Box 13	Amberley 7441	
Kaikoura Rūnanga	PO Box 39	Kaikoura 7340		takahanga.office@ngaitahu.iwi.nz
Tūāhuriri Rūnanga	219 Tuahiwi Road	RD1	Kaiapoi 7691	tuahiwi.marae@ngaitahu.iwi.nz
	Copy to Mahaanui Kurataiao Ltd	PO Box 3246	Christchurch	Mahaanui.admin@ngaitahu.iwi.nz
Te Rūnanga o Ngai Tahu	PO Box13 046	Christchurch 8141		ttw@ngaitahu.iwi.nz