

From: [BDC Lgoima](#)
To: [REDACTED]
Bcc: [REDACTED]
Subject: Official Information Request for BDC - Ngakawau Hector Water Society Inc Agreement - Water Penalties
Ref: OIA 018/22
Date: Thursday, 21 April 2022 9:53:00 am
Attachments: [image006.png](#)
[Attachments - Ngakawau Hector Water Supply Ownership.pdf](#)
[191122 - Ngakawau Hector Water Supply Ownership.pdf](#)
[201015 - Letter for CEO - LGOIMA Response Ref OIA 060 20.pdf](#)

Dear [REDACTED]

We refer to your official information request dated 22 March 2022 regarding the charging of penalties on overdue rates in respect to the Ngakawau Hector Water Society (NHWS).

We have decided to refuse your request for a copy of the signed agreement between the Buller District Council and NHWS under section 17 (e) of the Local Government Official Information and Meetings Act as this document does not exist. There is not a requirement for one given our legal standing as owner of the supply.

We have attached copies of correspondence previously supplied to you which outlines the legal advice obtained by the council that it is the owner and holder of responsibility for the supply of drinking water.

As such, we are able to rate on the supply, and do apply penalties when these become applicable. Therefore, the outstanding penalties owed by you are still required to be paid.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact the Buller District Council by return email to lgoima@bdc.govt.nz.

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request may be published at <https://bullerdc.govt.nz/district-council/your-council/request-for-official-information/responses-to-lgoima-requests/> with your personal information removed.

Kind regards

Rod Fox | Group Manager Commercial and Corporate Services
DDI 03 788 9629 | Email rod.fox@bdc.govt.nz

Buller District Council | Phone 0800 807 239 | bullerdc.govt.nz
PO Box 21 | Westport 7866

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15 October 2020

Via email: [REDACTED]

Dear [REDACTED]

Official Information Request re Ngakawau Hector Water Rates - Ref OIA 060/20

We refer to your official information request dated 25 September for information regarding Ngakawau Hector Water rates.

The answers to your question are below in blue:

- 1) Please supply the document/s officially showing the signing over to the council of the above water supply from the community/society/water board? This would show the date and signatures of the persons in the community (Ngakawau Hector) that have the authority to sign over the water supply and or operation of such.

The drinking water reforms (which updated the law in conjunction with the Health Act 1956) in 2005 and the subsequent issue of the Drinking-Water Standards of NZ (Revised 2008) saw Council meeting with all water supply ratepayers around that time in the Buller District. The meetings were about working alongside the groups to work out how the new requirement for providing water which met the new standard could be achieved. Some of the small rural supplies got on board and took advantage of the subsidies offered by the Government of the day, and their upgrades have been completed and the water provided to the community is safer to drink and is also monitored for compliance as the regulations require. In the case of the supply you are connected to, some members of the Ngakawau-Hector Water Board did not agree with the proposed water treatment plant plans that were considered at that time, and since then have entered a long-time discussion with Council about ownership.

All of the Council records and the Water Board records that were provided have been carefully reviewed twice by legal teams, a significant task in terms of time and cost. On both occasions Council has obtained legal advice that it is the owner and administrator of the water scheme. Therefore, Council believes the right and responsibility to levy a water rate is correct, and the water rate is included part of the Buller District Council 2020/2021 rate as set out in the Funding Impact Statement in the Annual Plan. Included is a copy of a report

that was presented and adopted by Council at the November 2019 Council meeting. This report provides background and further detail that will answer some of your queries.

- 2) Please supply the legal advice that you refer to the council has obtained, showing that the council as the owner and administrator of the water scheme?
[As above](#)

- 3) With reference to the above water scheme please supply information on the process the council went through to be able to strike a rate for something that it does not own? It is noted that the society/water board were never informed of this action by the council.

[Council approved the 2020-2021 Draft Annual Plan be opened for consultation at the 29th April 2020 Council meeting. This document included a draft rates policy \(otherwise known as the Funding Impact Statement\) which was consulted on with the community at large. The Annual Plan was later adopted, after consultation on 24 June 2020.](#)

- 4) In the event that the council is proven to be owner of the water scheme, please explain when the money that is held in a separate account on behalf of the society will be returned to the community?

[Council does not hold any money on behalf of the Ngakawau/Hector Water Board Society. Council holds money in a Council closed account for the benefit of current and future consumers of the Ngakawau Hector Water Supply. This money is held for ratepayers who have been rated by Buller District Council. The fixed charge which is charged as a targeted water rate is calculated to meet the operational and capital expense needs of this water supply based on the budget which is included in the 2020-2021 Annual Plan.](#)

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact the Buller District Council by return email to lgoima@bdc.govt.nz.

Kind regards



Sharon Mason

Chief Executive Officer

BULLER DISTRICT COUNCIL

27 NOVEMBER 2019

Prepared by - Mike Duff
- Group Manager Infrastructure Services

Reviewed by - Sharon Mason
- Chief Executive Officer

NGAKAWAU HECTOR WATER SUPPLY OWNERSHIP

1. REPORT SUMMARY

The purpose of this report is to summarise for Council's information its position on the dispute over the Ngakawau Hector Water Supply (the Scheme) on the basis of legal advice it has received.

A community entity, Ngakawau Hector Water Society Incorporated (the Society) is the registered water supplier for Ngakawau and Hector under section 69J Health Act 1956.

It therefore has responsibility to provide safe, adequate, reliable drinking water compliant with Drinking Water Standards New Zealand. Council have previously been the registered water supplier.

It is unclear to Council whether the Society acts on behalf of all local ratepayers. However, Council has been willing to negotiate with the Society to date and has received a community petition with over 100 signatures to affirm their views.

The matter of Scheme ownership, control and authority has been in dispute between the Society and Council for many years. Council has engaged with the Society but has been unable to reach agreement.

The Society take the position that it has owned the Scheme since its construction in the late 1950's.

The Council has received legal advice that it owns the Scheme and is responsible for supplying drinking water.

A workshop was held with Council and members of the Society on 20 November 2019 to discuss matters included in a draft version of this report. The Society provided a written submission to the workshop, which is included as an attachment.

2. DRAFT RECOMMENDATIONS:

That:

- 1. The report be received by for information.**
- 2. The Council acknowledges that it is legally obliged to continue to provide the Ngakawau Hector water supply and that it currently cannot transfer its ownership of the Scheme to the Ngakawau Hector Water Society Incorporated.**
- 3. The Council continues to work with the Ngakawau Hector community to explore ways for their continued involvement in the day-to-day operation and maintenance of a fit for purpose, value for money and fully compliant Scheme.**

3. BACKGROUND:

Ownership of the Ngakawau Hector Water Supply (the Scheme) has been in dispute between Council and the Ngakawau Hector Water Society Incorporated and its predecessors (the Society) for many years.

The Scheme draws raw water from Deans Stream via an intake about 3km from the townships. It rests in uncovered settling tanks before flowing down a trunk main to supply the reticulation. Some of the pipes and other infrastructure is original and other parts were replaced in the 1980's and 90's.

The water is untreated and currently on a permanent Boil Water Notice. It does not meet compliance to the Drinking Water Standards New Zealand (DWSNZ) 2005 (rev 2008) as defined as a 'small' networked supply under the Health Act 1956.

The Scheme supplies approximately 200 people (more or less); a conclusive population count has not been completed recently to Council's knowledge.

The Scheme was constructed and commissioned in the early 1950's. It was funded by a combination of Central Government grants and a loan to the Buller County Council. The residents at the time provided labour and other assistance to build the Scheme. Once completed, the Buller County Council rated residents for the cost of the Scheme. When then Buller County Council became part of the Buller District Council, all assets that it owned were transferred. However, it is understood that at the time of the merger many of the Buller County Council's records were lost.

In 2016, Council engaged Buddle Findlay lawyers to provide legal opinion on ownership the Scheme, based on information provided by both parties. Buddle Findlay concluded that, on balance, Council owned the Scheme.

The key conclusion was based on the vesting provisions in the Counties Act 1956. The advice was made available to both parties and was not legally privileged. Refer to Attachment A for copy of the Buddle Findlay public briefing paper.

The Society did not accept the Buddle Findlay conclusion and continues to rely on their own file of historical information and evidence, in order to prove that they are the rightful owners of the Scheme. Council is not aware of any legal or other independent advice that it relies on to confirm their view.

An extensive search of Council archives in early 2019 led to the collation of records and historical documents held by Council. This information was shared with the

Society, and then provided to Fletcher Vautier Moore (FVM) lawyers to conduct a review of the Buddle Findlay advice.

Amongst other objectives, the review sought FVM's opinion on the advice and in particular, if there was any reasonable doubt as to the robustness of its conclusions.

FVM concluded the Buddle Findlay advice was sound and saw no reason to reach a different conclusion on Council's ownership interest. It also provided advice on a number of other issues that arose out of that issue and Council's rating for and provision of the water service.

Importantly, FVM concluded that Council was responsible for providing the water services to the community and has confirmed that it must continue to do so. Refer to Attachment B for copy of the FVM public briefing paper.

Before 2011, the Society (via a predecessor) was the registered drinking water supplier. Around that same time, the register was changed to Council by the Canterbury District Health Board (CDHB), who act on behalf of the Ministry of Health, without knowledge or approval from the Society.

After discovering it was no longer registered, and through many years of the Society pursuing and disputing the matter, the CDHB reinstated the Society as the registered water supplier in 2018. It is understood this followed a report by the Ombudsman criticising CDHB's process, but this has not been sighted by Council and cannot be located in its records.

Refer to Attachment C for an extract of the 2019 register with the Society highlighted. This confirms they are the registered water supplier under section 69J Health Act and therefore responsible for providing safe, adequate, reliable drinking water compliant with DWSNZ.

Council have received advice that it should be a registered supplier as well as it is responsible for providing the water services.

Ownership, Control & Authority

The principle of ownership is materially different to registration under the Health Act, although both are usually linked i.e. the registered supplier is often the owner.

Being registered under section 69J of the Health Act 1956 imposes specific legal responsibilities and duties to ensure compliance with the Health (Drinking Water) Amendment Act 2007.

Ownership, however, relates to the entity who has control and authority, and this is not addressed under the Health Act. Typical evidence of ownership includes title (where applicable), investment funding (operational and capital), asset management planning, expenditure authorisation and activity compliance approvals.

However, the Local Government Act 2002 (LGA) does address ownership and places restrictions on councils' ability to transfer or dispose of a water supply scheme and its associated infrastructure. It also forbids councils from stopping the supply of water services if they were doing so in or after 2002 when the Act came into force.

As set out in the FVM public briefing paper, the evidence makes it apparent that Council was involved in the running of the Scheme since 2002.

While there is some inconsistency as to precisely what the Council and members of the community were respectively responsible for from time to time, Council has received advice that it was providing a water supply in 2002 or at some point after 2002 and therefore must continue to do so.

Council has collected targeted rates for the Scheme and provides financial administration of the money through a separate closed account. Refer to Attachment D for the most recent statement and balance of the closed account.

Council has struck a rate since at least 2002. The records show that it first rated for the Scheme in the early 1950's just after it was constructed to pay for that construction.

It is not clear how long Council has been rating for the Scheme, or if there were periods before 2002 when no rates were struck and collected. Council has struck a targeted rate for the 2019/20 rating year.

Council is also the current holder of the relevant resource consent and therefore has the legal authority to take water, refer to Attachment E.

Summary of Legal Advice

Council has been provided with the following legal advice by FVM:

- Council owns the Scheme;
- Council has been providing a water service;
- Council must continue to provide the water service.

FVM identified three options on how Council could proceed:

Option	Description
1	Council withdraws ownership claim and the Society provides the water service
2	Council maintains ownership claim and provides the water service
3	The Society provides the water service for Council via a formal agreement under the LGA

FVM also provided a list of the 'pros and cons' of each option and have advised Council that it must proceed with either Option 2 or 3, since Option 1 has significant legal risk.

Following discussions with the Society in mid-2019, they have advised they will not provide the water service on behalf of Council.

Hence, Option 3 cannot proceed with the Society. There are currently no other known parties that could enter into an agreement with Council on this basis.

Therefore, the FVM recommendation is Option 2. It takes this view because it considers that Council has legal obligations to provide the water service and had or has control of the Scheme's operation and maintenance.

FVM consider that Council is prohibited from stopping the supply of the water service and from taking any steps to divest or otherwise transfer its interest in the Scheme (unless it followed the process in the LGA).

It is noted that FVM has also pointed to implications for the rates that have been struck if Council takes the view it does not provide the water service.

Option 1 – Council ceases to provide the water service

Pros	Cons
<ul style="list-style-type: none"> • Resolve dispute with NHWSI • Reduce operational costs to BDC • Allow BDC to redirect resources to other water schemes (staff time and contractor costs) • No further Health Act obligations to comply with • Avoid ongoing legal costs arising from continued uncertainty (dispute) around the parties' relationship with the Scheme 	<ul style="list-style-type: none"> • Breach s130(2) LGA '02 • Breach s130(3)(c) LGA '02 • If concede ownership, breach of s130(3)(b) LGA '02 • Litigation risk if water contaminated and third party takes legal proceedings alleging Council had obligations under LGA '02 • Providing drinking water a key local government function – reputational damage and possible Central Government concern • No certainty that NHWSI has resources and expertise to properly manage the Scheme and comply with public health obligations • Ignoring (publicly available) legal advice • No consultation to date on decision to cease providing water service • None of the resource consents in place are held by NHWSI – would need to transfer consent to NHWSI • BDC unable to set targeted rate (because based on provision of water service by Council) • Required to enter into funding agreement with NHWSI prior to handing over money collected from previous rates • Lack of certainty about future funding – new targeted rate for purpose of making grant to NHWSI required • May need to vary contract with Westreef if it currently provides for it to maintain the Scheme.

Option 2 – Status Quo - Council provides water service

Pro	Con
<ul style="list-style-type: none"> • Council can manage contamination risk • Consistent with: <ul style="list-style-type: none"> - Buddle Findlay advice that Council owns the Scheme - FVM advice on Council's obligations • Council can consider if it should take legal action to resolve the disputed issues with NHWSI • Consistent with historic rating of Scheme • Council holds resource consents. • Council can fund cost of Scheme from money collected and to be collected from targeted rates. 	<ul style="list-style-type: none"> • Breaching obligation to be registered drinking water supplier under Health Act • Cost – BDC continues to be required to pay for the water service (through rates) • No resolution of dispute with NHWSI • Litigation risk if NHWSI takes proceedings • Concerns about basis for CAP application to fund capital works in 2011

Option 3 – Society provides water service on Council's behalf under LGA '02 arrangement

Pro	Con
<ul style="list-style-type: none"> • Gives NHWSI control of supply • Consistent with statutory obligations and legal advice • Consistent with historic and proposed rating for Scheme • Council can require contractually that NHWSI complies with statutory obligations and therefore manage contamination risk • Consistent with resource consents held by Council (i.e. no need to transfer) • Council can fund Scheme from rates previously collected • Council can set targeted rates for the Scheme • Council can continue existing contractual relationship with Westreef to maintain the Scheme • Consistent with Council's historic position on ownership – LGA '02 requires Council to retain ownership of Scheme at expiry of the arrangement (contract) • Council must retain control of setting of any water prices • Council retains responsibility for provision of water service (n.b. in both pro and con columns). 	<ul style="list-style-type: none"> • Requires NHWSI agreement – may not be obtained • Doesn't resolve dispute about ownership • Reliance on expertise of NHWSI to comply with statutory duties – loss of Council control • Doesn't resolve non-registration of BDC under Health Act • Need to undertake public consultation before entering into a joint arrangement to manage Scheme • Council retains legal responsibility for provision of water services (n.b. in both Pro and Con columns)

Other Alternatives

Other alternatives have been considered by both parties in order to resolve the dispute. Unfortunately, no agreement has been reached yet.

Under the LGA, there is a process that allows small water services to be transferred to a new service operator if certain conditions are met; refer Section 131 below:

131 Power to close down or transfer small water services

- (1) Despite section 130(2), a local government organisation may, in relation to a water service that it is no longer appropriate to maintain,—
 - (a) close down the water service; or
 - (b) transfer the water service to an entity representative of the community for which the service is operated.
- (2) A local government organisation must not close down or transfer a water service unless—
 - (a) there are 200 or fewer persons to whom the water service is delivered and who are ordinarily resident in the district, region, or other subdivision; and
 - (b) it has consulted on the proposal with the Medical Officer of Health for the district; and
 - (c) it has made publicly available in a balanced and timely manner—
 - (i) the views of the Medical Officer of Health; and
 - (ii) the information it has received in the course of—
 - (A) undertaking a review, assessment, and comparison under section 134(a) and (b); or
 - (B) preparing a management plan and making assessments under section 135(a), (b), and (c); and
 - (d) the proposal is supported, in a binding referendum conducted under section 9 of the Local Electoral Act 2001 using the First Past the Post electoral system,—
 - (i) in the case of a proposal to close down a water service, by 75% or more of the votes cast in accordance with subsection (3); and
 - (ii) in the case of a proposal to transfer a water service, by more than 50% of the votes cast in accordance with section 132.
- (3) For the purpose of subsection (2)(a), a certificate signed by the chief executive of the local government organisation as to the number of persons to whom the water service is delivered in the district, region, or other subdivision at any date is conclusive evidence of that number.

It is not known if all the conditions of the section can be complied with at this time, notably the requirement it be a small scheme with less than 200 people using it.

The Society's position is that it will not agree to a transfer under Section 131 because it does not agree that Council is the current owner (i.e. you cannot transfer what you do not own).

While the Society's consent to Council initiating the process is not strictly necessary, there is no known other community group or representative that has indicated any willingness to operate and take responsibility for the Scheme.

It is noted that one advantage of the process under Section 131 is that it requires a binding referendum, which would confirm the extent of community support for Council not providing the water service (and it being provided by another party such as the Society).

With Council’s support, the Society has explored another approach to confirm its legal ownership via a local bill (Bill) of Parliament. A Bill can be put before Central Government that either confirms or transfers ownership of the Scheme and responsibility for its operation to the Society or another entity. Any Bill would take precedence over the provisions of the LGA.

The process relies on the Bill being sponsored by a Member of Parliament (MP) and would follow a similar process to Gore District Council’s Otama Rural Water Supply, which received royal assent in May of this year.

It is understood that local MP’s have been approached by the Society, but it is unclear how far this alternative has progressed.

Should the Society wish to proceed with a Bill, Council would need to consider the matter and decide by formal resolution whether to support it or not, including, potentially, consulting with the community.

Gore District Council (Otama Rural Water Supply) Bill

Home » Parliamentary Business » Bills and Laws » Bills (proposed laws)

Metadata

The purpose of this bill is to provide a process whereby the Otama Rural Water Supply scheme can be transferred to the users of the scheme, despite section 130 of the Local Government Act 2002, and provides for certain related matters if the scheme is transferred.

Get notifications



MP in charge
Patterson, Mark

Progress of the bill

In	1	SC	2	CH	3	RA
Bill Introduced	First Reading	Select Committee	Second Reading	Committee of whole House	Third Reading	Royal Assent
23/07/18	08/08/18	11/03/19	03/04/19	01/05/19	22/05/19	27/05/19

Long Term Plans & Annual Plans

Legal advice from FVM has confirmed that the Council's plans under the Local Government Act are material for the question of what the Council does next.

Since the LGA came into force, Council has produced Long Term Plans, Annual Plans and Annual Reports in accordance with this legislation. These plans are relevant because they demonstrate Council taking responsibility for the operation and maintenance of the Scheme during this period.

The early Annual Plans distinguish Ngakawau-Hector from the other district supplies under Council control. They do not discuss ownership per se, but contemplate Council as in control and responsible for the Scheme's operation.

From 2006 onwards, the narrative changes and Council expressly records itself as the owner of the Scheme. The plans describe Council as being responsible for the management of water supply services and confirms its intention to retain ownership in the future as a way of ensuring the provision of drinking water.

The plans do refer to day-to-day maintenance by the community. The plans then go on to address significant issues, including asset renewals and upgrades. Therefore, from 2002, there has been a consistent theme running through Council's Long Term Plans and Annual Plans that:

- Council is responsible for providing the water supply service to the community at Ngakawau and Hector
- The water supply is an activity undertaken by the Council
- The Council owns the water supply scheme; and
- The day-to-day operation of the water scheme is undertaken by local residents, but major upgrades and renewals of the Scheme are Council's responsibility.

Council has also struck targeted rates based on its provision of the Scheme and responsibility for supplying the water service.

If Council determines that it has not historically provided the water service, FVM have advised that this may remove the basis for the setting of the rates and may lead to legal challenge of their validity.

However, Council has not been able to demonstrate that appropriate community consultation was held regarding ownership of the Scheme when developing its first Long Term Plans and Annual Plans circa 2002.

The Society's View

Following numerous meetings with the Society over the past two years, the following reflects a summary of its position as understood by Council. It is not intended to be comprehensive, as that is covered separately by the Society's own written submission, refer Attachment F.

Fundamentally, the Society's position is that the Ngakawau-Hector community own the Scheme and are responsible for the provision of drinking water to that community.

It says the Council's current role is only to administer and hold funds collected on behalf of the community for the provision of drinking water and to make those funds available for work to be undertaken when requested by that community, currently represented by the Society. It does not consider Council has any decision-making role over the Scheme, e.g. implementing a maintenance schedule.

The Society points to the original construction of the Scheme being undertaken with significant community labour to offset its cost. Without this community labour and assistance, the Scheme would not have been viable and is unlikely to have been built. The Society also say that the community helped to finance the Scheme and that no funding was provided by Council.

The Society considers that Council's lack of communication and engagement circa 2002 led to false assumptions and incorrect claims of Scheme ownership by Council.

In their opinion, this makes the Council Long Term Plan and Annual Plan documentation irrelevant and not to be relied upon. The community was not made aware or formally consulted as to whether the Scheme should be included as a Council asset.

In addition, whilst not directly relevant to Scheme ownership, the Society have raised concerns regarding Council's application for the Capital Assistance Program (CAP) drinking water subsidy in 2011.

Through the Canterbury District Health Board (CDHB), Council was successful in securing capital funding from the Ministry of Health for upgrading the Scheme to meet Drinking Water Standards for New Zealand (DWSNZ) compliance.

The CAP funding criteria requires the applicant to be the supply owner and listed on the Ministry of Health's drinking water register (the Register).

The Society claims that in order to be eligible for the funding, Council sought changes to the Register without consultation with the Society, who were the registered supplier at the time. The Society therefore claims that the CDHB illegally changed the Register at Council's request, citing that approval from the Society was not obtained.

In 2018, the Ministry of Health via the CDHB reinstated the Society as the registered water supplier, acknowledging that the 2011 change was an administrative error. The Society believe that the Health Act was breached, and that Council incorrectly claimed it was acting on behalf of the Society.

It remains unclear whether the CAP funding secured from the Ministry of Health is still available to Council. However, it would not be transferrable to the Society and the Society has not expressed a desire to obtain it. The Society believe that both Council and CDHB were fully aware that the subsidy was only available to Council under the CAP funding criteria.

The Society does not accept the Buddle Findlay legal advice received in 2016. They have compiled files of historical information and evidence in order to show, in the Society's view, that they are the rightful owners of the Scheme.

The Society believes that since 2002, Council has failed in its fundamental purpose of serving the people of their community. It has serious concerns about Council's behaviour and activities over that time.

The Society will consider taking their concerns to the Ombudsman, Department of Internal Affairs and Audit NZ, and may decide to take legal action against Council should the ownership dispute not be resolved in their favour.

Community Views

Council has had numerous discussions with the Society over a number of years. The Society's views have been clearly expressed on several occasions to Council, including meetings and workshops with elected members and staff.

Council has not consulted with the wider community, so to that extent cannot be sure if the Society's position is representative or a consensus. However, Council has received from the Society a community petition with over 100 signatures to affirm their views.

A search of the public register of incorporated societies can make some information available as to the members of the Society, but there is no obligation to have an up to date member list on that register.

Given the significance of the provision of the water supply to the community and to Council, any decision or actions that would lead to Council no longer taking responsibility for the water supply, given the legal advice received, would require consultation with the community.

It is noted that is one of the reasons why Council has previously suggested the process under Section 131, is that it would provide a clear signal as to the community's view on Council not providing the water supply.

Definitions for Drinking Water Supplies

Drinking water supplies are defined under Part 2A Section 69G Health Act 1956 as follows:

- Self Supplier = Privately owned for exclusive, single ownership drinking water use
- Network Supplier = Supplies drinking water from the source to one or more properties by means of a pipe. Population thresholds for at least 60 days per year:
 - Exempted (from duties 69S to 69ZC) < 25
 - Neighbourhood = 25 to 100
 - Small = 101 to 500
 - Minor = 501 to 5,000
 - Medium = 5001 to 10,000
 - Large > 10,000
- The system for supplying drinking water as Network Suppliers may be public (e.g. Council) or privately owned (e.g. Community, organisation, business or individual).
- In any case, for populations served 25 and over, compliance with duties under the Health Act 1956 is mandatory.
- All Network Suppliers must be registered under Section 69J.

Legal Summary of Timeline

- The Scheme was built in the early 1950's using a combination of Council and Central Government funds. Council rated (or equivalent legal mechanism) for its portion of the construction costs.
- Council and members of the community with Council's knowledge have maintained the Scheme over the years.
- Council have rated, by way of a targeted rate, and from time to time have described the Scheme as a Council asset in its Long Term Plans, Annual Plans and other documents. In other places, it has been described as a scheme Council administers or is responsible for.
- Some capital works were undertaken in the 1990's to replace sections of pipe. Council undertook these works, presumably with the knowledge or agreement of the community.
- In 2011, Council was registered as the drinking water supplier under the Health Act 1956. Prior to that Council understands that a group representing the community was registered.
- In 2016, legal advice was sought from Buddle Findlay regarding ownership of the Scheme. Council and the Society provided the information that was analysed.

- The Buddle Findlay advice was that, on balance, Council owned the scheme. A summary of that advice was made public and Council has proceeded on that basis since.
- Council and the Society have continued to discuss the matter, actively since 2017.
- In 2018, the drinking water register was changed to register Ngakawau Hector Water Society Inc. (the Society) as the registered supplier.

Next Steps

- Write to the Society confirming the advice received and Council's position.
- Instruct Council's contractor to undertake regular inspections and maintenance of the Scheme.
- Continue to engage with the Society to attempt to avoid litigation, including options such as a local bill or a Section 131 LGA process.
- The next steps following that will depend on what action the Society takes. If litigation or any other legal process is commenced (such as an investigation by the Auditor-General) Council should participate in those investigations in good faith and assist the decision-maker to resolve the matter.

4. CONSIDERATIONS

4.1 Strategic impact

Reliable delivery of safe drinking water is critical to the success of our district and long-term planning. Council has a strategic interest in being clear with the community on its position on legal issues such as the ownership of its assets and infrastructure. If the report is not accepted for information, then Council will need to consider its next steps and the strategic impact of any position it subsequently takes in light of the risks to Council set out in this report and the Council's legal advice.

4.2 Significance Assessment

This is of high significance, given the need for safe drinking water. There may be a risk to public health and welfare if no party is taking responsibility for doing so or the proper resources are not being applied.

4.3 Risk Analysis

Under legislation, Council must apply a risk-based approach, (i.e. what could go wrong?) and ensure all practicable steps are being taken to manage risk. This requires knowledge of the legal framework, capacity to perform required duties, and capability to meet compliance requirements. Risks include the matters set out in this report and the legal advice received. The Society have signalled litigation to prove their ownership and control of the Scheme if Council do not agree with their position. Additionally, it is an offence under the Health Act to supply water and not be the registered drinking water supplier.

4.3 Policy/Legal Considerations

Council must comply with the relevant policy and legal requirements including the Local Government Act, Health Act, Health (Drinking Water) Amendment Act and Drinking Water Standards of New Zealand.

4.4 Tangata Whenua Considerations

Nil noted.

4.5 Views of Those Affected

Discussions have been held with community representatives. No wider consultation has been undertaken and there is uncertainty as to the view of the wider community, although Council understands that a petition is being prepared by the Society. The specific challenges around being responsible for the supply of drinking water have been communicated to the Society. CDHB, as the regulator, is aware that there is a dispute between Council and the Society.

4.6 Costs

In most instances, operational costs for drinking water supplies in our district have been budgeted in our Annual Plan. However, resolving legacy matters such as this incurs significant legal costs.

4.7 Benefits

Provision of reliable and adequate safe drinking water for our water supplies is a core function of Council and benefits the health of our residents and visitors.

4.8Media/Publicity

Publicity in some communities is expected, not all of which will be positive. However, this should not deter from the valid reasons of providing safe drinking water.

Attachment A – Buddle Findlay Public Briefing Summary

PUBLIC BRIEFING PAPER ON OWNERSHIP

1. The Buller District Council ("**Council**") has obtained legal advice that the Council is the likely legal owner of the Ngakawau-Hector water supply ("**water supply**"). A copy of the report received from Buddle Findlay has been provided to the Ngakawau-Hector Water Society Inc ("**Society**").
2. The Council has been advised that the Buller County Council ("**County Council**") was the original owner of the Ngakawau-Hector water supply infrastructure. This asset transferred to the Council under the Local Government (West Coast Region) Reorganisation Order 1989 dated 13 June 1989.
3. The water supply was originally constructed on Crown land with Crown permission and using Government funding. In 1949, the County Council purchased materials for the water supply scheme. Residents made working bees available in order to reduce the yearly water rate. The work was supervised by the County Engineer-Clerk and an Engineer for the Mines Department.
4. The County Council had an early role in management. Water users, and potential water users, corresponded with the County Council regarding the supply of water and charges for it. The government also considered that the County Council was responsible for the water supply.
5. While the water supply infrastructure was constructed by community groups using manual labour and these groups later assisted with maintenance, such actions are not enough to establish ownership by any community group. The current work performed by the Society is done under supervision of the Council.
6. Quite apart from the original common law position outlined above, the Council has been advised that the water supply is likely to have automatically vested in the County Council under the Counties Act 1956 ("**the 1956 Act**") which provides for automatic vesting of water infrastructure in certain circumstances.
7. There are no actions taken by the County Council or the Council since vesting that would transfer legal ownership to the Society. It is acknowledged that the Council has been inconsistent in the way in which it has treated the water supply as an asset over the years, however this has not conveyed legal ownership to the Society. The misreporting of the legal position in some Council or Ministry of Health documentation has regrettably added to public confusion but again this does not convey ownership to a community group.
8. The Council has the current legal rights to take and use water that are required for operation of the water supply under the Resource Management Act. The Council also has the right to maintain the intake infrastructure in the stream. The rights authorised by the Resource Management Act are consistent with advice that the legal position is that the Council owns the water supply.
9. The Council, as owner, has the authority to, and is responsible for, managing and operating the water supply, and compliance with corresponding statutory obligations including the Drinking Water Standards in the Health Act 1956. The Council is prohibited from divesting the water supply to an entity representative of the community for a water supply to over 200 persons pursuant to section 131(a) of the Local Government Act 2002 ("**LGA**").

Attachment B – Fletcher Vautier Moore Public Briefing Summary



FLETCHER VAUTIER MOORE
LAWYERS

Briefing Paper

TO: Buller District Council
FROM: Fletcher Vautier Moore
DATE: 18 November 2019
RE: **NGAKAWAU HECTOR WATER SUPPLY - BRIEFING PAPER ON
LEGAL ADVICE**

Ownership of the Ngakawau Hector Water Supply Scheme

1. In 2016 Buller District Council (**Council**) instructed Buddle Findlay, Lawyers, to carry out a legal review on the ownership of the Ngakawau Hector water supply scheme, which opened in November 1950 (**Scheme**).
2. Buddle Findlay advised the Council, by report dated 20 September 2016, that the Council is the owner of the Scheme.
3. The Council instructed Fletcher Vautier Moore, Lawyers (**FVM**), to review Buddle Findlay's report. FVM agreed with Buddle Findlay's conclusion that the Scheme vested in Buller County Council in 1957 pursuant to section 267(3) of the Counties Act 1956, and that ownership of the Scheme was transferred from Buller County Council to Buller District Council as a result of the local government reorganisation in 1989.

Council's obligations under the water service provisions of the Local Government Act 2002

4. The Local Government Act 2002 (**LG Act**) imposes obligations on local authorities relating to the provision of water services.
5. The definition of water service includes a water supply, which means 'the provision of drinking water to communities by network reticulation to the point of supply of each dwellinghouse and commercial premise to which drinking water is supplied'.
6. There is evidence that the Council has provided a water service to the Ngakawau Hector community, albeit with assistance from the community, both before and after the commencement of the Local Government Act 2002 on 25 December 2002. Accordingly, the Council is bound by the obligations and restrictions set out in section 130 of the LG Act.
7. The effect of section 130(2) of the LG Act is that the Council has a statutory obligation to continue to provide the water service to the Ngakawau Hector community.

8. The effect of section 130(3) of the LG Act is that the Council must not divest itself of its ownership of the water service, and must not lose control of, sell, or dispose of the significant infrastructure necessary for providing the water service to the Ngakawau Hector community.
9. The Council's power to close down or transfer a small water service, set out in section 131 of the Act, does not apply in this case because it is understood that there are more than 200 persons to whom the water service is delivered and who are ordinarily resident in the District.
10. Section 137 of the LG Act gives the Council the power to enter into a joint arrangement with an entity for the purpose of providing any aspect of a water service, but the Council must continue to be legally responsible for providing the water service and must retain control over the pricing of the water service. There are also limitations, under such arrangements, on the Council's ability to sell or transfer ownership of existing infrastructure associated with the water service.
11. FVM consider the Council has a statutory obligation to continue to provide the Ngakawau Hector water service and cannot lawfully divest itself of ownership of the Scheme. The Council would be in breach of the LG Act if it fails to comply with these obligations.

Council's obligations under the drinking water provisions of the Health Act 1956

12. Part 2A of the Health Act imposes a range of duties on drinking water suppliers, including duties to monitor drinking water and to take all practicable steps to comply with drinking water standards.
13. Section 69G Health Act defines a drinking water supplier as a person who supplies drinking water to people from a drinking water supply.
14. All suppliers of drinking water, other than self-suppliers, must be registered on the Drinking Water Register for New Zealand. The Register is maintained by the Director General of Health.
15. In 2018 the Register was changed to record that the Ngakawau Hector Water Society Incorporated is the drinking water supplier for the Ngakawau Hector water supply. The Register records that the supply is a networked supply, which means that drinking water is supplied to properties by means of a pipe.
16. The Council has had, and continues to have, control of the operation and maintenance of the Scheme. Even if the day to day operation of the Scheme has been undertaken by local residents, it appears that major upgrades of the Scheme are regarded as the Council's responsibility.
17. FVM consider that the Council is providing the water service and should properly be described as the drinking water supplier in respect of the Scheme. The Health Act makes it an offence for a drinking water supplier to supply water for more than 5 days unless that supplier is registered or authorised to supply water by a medical officer of health.
18. FVM consider that the Council, despite not being registered, is responsible for complying with the duties of a drinking water supplier in respect of the Ngakawau Hector water supply, including the duty to ensure an adequate supply of drinking water is provided to each point of supply, and to comply with the drinking water standards.

Council's obligations under the Local Government (Rating) Act 2002

19. FVM consider that any discussion regarding the provision of water services at Ngakawau Hector necessarily involves considering the mechanism by which the costs of the water service are funded.
20. Annual Plans and Long Term Plans, dating back to 2004, show that the Council has been funding the costs of the Ngakawau Hector water supply by way of targeted rates under the Local Government (Rating) Act 2002.
21. The Council has set targeted rates on rating units connected to the Ngakawau Hector water supply. It has relied on provisions of the Rating Act that give the Council the power to set a targeted rate based on the provision or availability to land of a service provided by, or on behalf of, the Council. The Council's funding impact statements have also identified the Ngakawau Hector water supply as the Council activity for which the targeted rate is set.
22. If the Council were to acknowledge or concede that it has not previously provided a water service at Ngakawau Hector then FVM consider that such an acknowledgement:
 - (a) would be inconsistent with statements the Council has made in its Annual Plans and Long Term Plans over a long period of time;
 - (b) would remove the basis on which the Council has set targeted rates for the Scheme and calculated liability for those rates; and
 - (c) would create the risk of a challenge to the validity of water supply rates previously set and assessed by the Council on rateable land at Ngakawau / Hector.

Attachment C – Extract from Register of Drinking Water Suppliers for NZ

Register of Drinking Water Suppliers for New Zealand

PART ONE: Networked Supplies serving 25 or more people

2019 Edition

Printed April 2019

The Register of Drinking-water Suppliers in New Zealand is printed annually by the Ministry of Health, as required by section 69J(3) of the Health Act 1956. This document is one part of this Register and lists networked supplies serving 25 or more people.

Registration is actioned through drinking-water assessors at the public health units of district health boards.

The Register Part One documents 403 suppliers at 18 April 2019, who are responsible for 677 networked supplies serving 4,059,171 people, as recorded in the Drinking Water Online database on 18 April 2019.

The supplies can be grouped by supply population size:

Population band	Population range	Suppliers	Supplies	Population
Large	10,001 or more	36	42	3,434,362
Medium	5,001 to 10,000	18	26	179,256
Minor	501 to 5,000	61	191	377,460
Small	101 to 500	125	228	57,242
Neighbourhood	25 to 100	163	190	10,851
Total		403*	677	4,059,171

* Total is less than column sum because a supplier's supplies can span multiple population bands.

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Structure of the Register

The Supplier Register Part One presents suppliers grouped by health district. Health districts are in north to south order, and suppliers are listed alphabetically within those.

All networked supplies serving 25 or more people are included in this part of the Register.

Interpreting a Register Entry in Table 1

Supplier name		Supplier ID	
Supplier address			
Town or city			
First registered date			
Supply code	Supply name	Size:	eg. Small
Volume Capability:	Cubic metres per day	Category:	eg. Networked Supply
Source code	Source name		

Discussion of Items

Supplier Details section

Supplier Name	Organisational name, possibly adjusted so that unique in New Zealand
Supplier ID	Database identifier for this supplier
Supplier Address	Normally a postal address, with town or city.
First Registered	The date upon which any supply was first registered for this supplier.

Supply Details section

A drinking-water supply is identified by a supply code and name. A supplier may have more than one supply listed, and each supply receives water from one or more water sources.

Supply code	6 character code uniquely identifying a New Zealand drinking-water supply. The first 3 characters usually match the start of the supply name.
Supply name	Unique name for the supply. The full supply structure can be examined at http://www.drinkingwater.esr.cri.nz/ by entering the supply code or name.
Size	The population band representing the number of people receiving water from this supply. Possible values are: Large, Medium, Minor, Small and Neighbourhood. See the table on the front page for population ranges for each band. Supplies in this Register are all for communities of 25 people or more.
Volume capability	The maximum daily volume of water that can be delivered by a supply in a day, expressed as cubic metres per day (m ³ /day.) Note that this is a potential maximum rather than necessarily a volume regularly provided.
Category	Networked only in this document.
Source	Each supply receives water from one or more water sources, which may be rivers, lakes, groundwater or rainwater. A source may provide water for more than one supply.
Source code	A unique 6 character code. The first letter of the code indicates S for Surface water, G for Groundwater and R for Roof water.
Source name	Unique name for the source.

Health District 16. West Coast**Ahaura Community Trust Inc****1901**

c/- Ahaura Transport, PO Box 31

Ahaura

First Registered: 25 Jun 2018

Community: AHA300

Ahaura

Size:

Neighbourhood

Volume Capability:

-

Category:

Networked Supply

L Source: G03050

Ahaura Well

Birchfield Community**473**

437 Birchfield Road

Waimangaroa 7848

First Registered: 6 Oct 1994

Community: BIR002

Birchfield

Size:

Neighbourhood

Volume Capability:

-

Category:

Networked Supply

L Source: S00360

Unnamed Stream, Birchfield

Buller District Council**54**

P.O Box 21

Westport

First Registered: 6 May 1993

Community: INA002

Inangahua Junction

Size:

Neighbourhood

Volume Capability:

-

Category:

Networked Supply

L Source: G00957

Bore, Inangahua Junction Res.

Community: LIT003

Little Wanganui

Size:

Small

Volume Capability:

57 m³/day

Category:

Networked Supply

L Source: S00884

Little Wanganui Intake

Community: MOK001

Mokihinui

Size:

Neighbourhood

Volume Capability:

216 m³/day

Category:

Networked Supply

L Source: S00010

Mokihinui, Creek

Community: PUN001

Punakaiki

Size:

Small

Volume Capability:

345 m³/day

Category:

Networked Supply

L Source: S00013

Smith Creek, Punakaiki

Community: REE001

Reefton

Size:

Minor

Volume Capability:

1,728 m³/day

Category:

Networked Supply

L Source: G00023

Inangahua River Flat Bore

Community: WAI001

Waimangaroa

Size:

Small

Volume Capability:

3,456 m³/day

Category:

Networked Supply

L Source: S00011

Conns Creek, Waimangaroa

Community: WES001

Westport

Size:

Minor

Volume Capability:

7,800 m³/day

Category:

Networked Supply

L Source: S00016

Giles Creek, South Branch

L Source: S01038

Orowati River, Lower Giles Crk

Grey District Council

38

Asset Management, PO Box 382
Greymouth
First Registered: 6 May 1993

Community:	BLA001	Blackball	Size:	Small
Volume Capability:		14 m ³ /day	Category:	Networked Supply
Source:	S00025	Blackball Creek		
Community:	GRE001	Greymouth	Size:	Medium
Volume Capability:		15,300 m ³ /day	Category:	Networked Supply
Source:	G01365	Coal Crk Shallow Bores Grey Rv		
Source:	G02178	Taylorville Bore, Grey River		
Community:	RUN001	Runanga	Size:	Minor
Volume Capability:		1,034 m ³ /day	Category:	Networked Supply
Source:	G01365	Coal Crk Shallow Bores Grey Rv		
Source:	G02178	Taylorville Bore, Grey River		

Karamea Area School

1832

Private Bag
Karamea
First Registered: 25 Oct 1995

Community:	KAR006	Karamea School Community	Size:	Neighbourhood
Volume Capability:		80 m ³ /day	Category:	Networked Supply
Source:	G00824	Karamea School Bore		

Nelson Creek Community Society

1842

617 Nelson Creek Road
Dobson 7872
First Registered: 18 Apr 1997

Community:	NEL003	Nelson Creek	Size:	Neighbourhood
Volume Capability:		-	Category:	Networked Supply
Source:	G02056	Nelson Creek Bore		

Ngakawau - Hector Water Society Inc

1905

21 River Road, Hector
7822
First Registered: 6 Oct 1994

Community:	HEC001	Hector/Ngakawau	Size:	Small
Volume Capability:		3,240 m ³ /day	Category:	Networked Supply
Source:	S00358	Deans Stream, Hector		

Okarito Community Water Supply

1844

The Strand
Okarito
First Registered: 6 May 1993

Community:	OKA001	Okarito	Size:	Neighbourhood
Volume Capability:		-	Category:	Networked Supply
Source:	G01371	Okarito Bore No. 2		

Attachment D – Closed Account Statement & Balance

Financial Reports Financial Report - deanp

Activity Name : NGAKAWAU-HECTOR WATER
For period ended 30 June 2019

Account	Detail	YTD Actual 2018/19	Ytd Budget 2018/19	Ytd Variance	FYR Budget 2018/19

Reporting month year is 06/19, Budget shown is set 01					
Statement of Operations					

Income					

7341 0702	Separate Rate	(54,016)	(54,252)	(236)	(54,252)
	Total Income	(54,016)	(54,252)	(236)	(54,252)
Expenses					

7341 2501	Depreciation	15,923	16,320	397	16,320
7341 2830	Insurance	1,138	1,550	412	1,550
7341 2837	Westreef Outwork		7,500	7,500	7,500
7341 2840	Power Heat & Lighting		2,004	2,004	2,004
7341 2845	Rates	393	280	(113)	280
7341 2847	Repairs Mtce & Outwork	3,355	5,004	1,649	5,004
	Total Expenses	20,809	32,658	11,849	32,658
Internal Charges					

7341 4505	QA & Contract Supervision	1,925	4,308	2,383	4,308
7341 4508	Overheads - Mgr Operations	1,202	1,200	(2)	1,200
7341 4512	Overheads - Corporate Services	2,459	2,772	313	2,772
7341 4514	Overheads - Asset Management	2,163	1,944	(219)	1,944
	Total Internal Charges	7,749	10,224	2,475	10,224
Net operations					
		(25,458)	(11,370)	14,088	(11,370)
=====					
Capital Expenditure					

7341 5560 01	Minor Capital	196	2,100	1,904	2,100
7341 5560 05	Drinking Water Standards (DWS)	4,812		(4,812)	
7341 5998	Cap Exp Asset Suspende	(5,008)		5,008	
	Total Capital Expenditure		2,100	2,100	2,100
Net Capital and funding					
			2,100	2,100	2,100
=====					
Current Assets					

7341 6900	Ngakawau Water	(320,596)		320,596	
	Total Current Assets	(320,596)		320,596	
	Total Assets	(320,596)		320,596	
=====					
=====					

Financial Reports Financial Report - deanp

Activity Name : NGAKAWAU-HECTOR WATER
For period ended 30 June 2019

Account	Detail	YTD Actual 2018/19	Ytd Budget 2018/19	Ytd Variance	FYR Budget 2018/19

	Reporting month year is 06/19, Budget shown is set 01				
	Net Assets	(320,596)		320,596	
		=====	=====	=====	=====

Attachment E – Resource Consent



THE WEST COAST
REGIONAL COUNCIL

153 Tainui Street
P.O. Box 66, Greymouth.
The West Coast, New Zealand.
Telephone (03) 768 0466
Toll Free 0508 800 118
Facsimile (03) 768 7133
email: info@wcrc.govt.nz

RESOURCE CONSENT

Pursuant to Part VI of the Resource Management Act 1991 The West Coast Regional Council hereby grants to:

**BULLER DISTRICT COUNCIL
C/- GOLDER ASSOCIATES INZ) LTD
P.O. BOX 2281
CHRISTCHURCH**

A Resource Consent for the term and upon the conditions hereinafter set forth:

File No.:	RC01284
Resource Consent No.:	RC01284/1, RC01284/2 & RC01284/3
Date Of Issue:	26 June 2002
Term:	35 years from date of issue
Type of Resource Consent:	Water Permit, Discharge Permit & Land Use Consent
Purpose of Resource Consent:	RC01284/1 - Water Permit To take a combined maximum rate of 37.5 l/s from Dean Stream, for the purposes of community supply, Ngakawau RC01284/2 - - Discharge Permit To discharge at a maximum rate of 37.5 l/s into Dean Stream, Ngakawau RC01284/3 - Land Use Consent To disturb the bed associated with maintenance of intake structures in bed of river of Dean Stream
Location:	Ngakawau
Legal Description:	Sections 10 and 12 Block II Ngakawau Survey District
Map Reference:	At or about NZMS 260 L28: 178 567

Conditions:

Conditions Applying to All Consents

Pursuant to Section 108 of the Resource Management Act 1991 the Resource Consent includes the following conditions:

1. Works shall be carried out in accordance with the details contained in the consent application submitted to the Consent Authority, except where inconsistent with these conditions. Any change or cancellation must be made in accordance with Section 127 of the Resource Management Act 1991.
2. Pursuant to section 128 of the Resource Management Act 1991, the Consent Authority may review the conditions of the consent by serving notice within a period of one month commencing on each anniversary of the date of issue of the consent, for any of the following purposes.
 - a. To deal with any adverse effect on the environment which may arise from the exercise of this consent, and which it is appropriate to deal with at a later stage.
 - b. To change the standards imposed by conditions of this consent to standards which are consistent with any relevant Regional Plan, District Plan, or Act of Parliament.
 - c. To require the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment.
 - d. If the information made available to the consent authority by the applicant for the consent, for the purposes of the application, contained inaccuracies which materially influenced the decision made on the application, and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.
3. The Consent Holder shall pay to the Consent Authority such administration, supervision and monitoring fees as are fixed from time to time by the Consent Authority in accordance with Section 36 of the Resource Management Act 1991.

Conditions Applying to RC01284/1

4. The combined maximum rate of take from both the North Branch and South Branch of Dean Stream shall not exceed 37.5 litres per second from the intake located at approximately L28: 178 567.
5. A fish screen shall be installed, operated and maintained on both the North Branch and South Branch intakes to ensure that fish are prevented from passing into any intake.

Conditions Applying to RC01284/2

6. The maximum rate of water discharged into Dean Stream shall not exceed 37.5 litres per second at the point of discharge, located approximately 40 metres downstream of the junction of the North and South Branch intakes of Dean Stream.

Conditions Applying to RC01284/3

7. The intake structures located in the bed of the stream shall be maintained as 100 millimetre piping.

8. Support and positioning of the intake structures shall be maintained at infrequent intervals along the pipe by rock material obtained from the bed of the stream.

NOTES TO THE CONSENT

Pursuant to Section 125 of the Resource Management Act 1991, this resource consent will lapse 2 years after the date of commencement of the consent if the consent is not actioned before the end of this period. However, this period can be extended under the Resource Management Act 1991 upon application to the Consent Authority.



RESOURCE MANAGEMENT OFFICERS GROUP

Attachment F – Submission from the Society

Ngakawau-Hector Water Society Inc.

Early History and Events of the Ngakawau- Hector Water Supply.

1946 - 1952

In 1946 the Buller County Council approached the Communities of Granity, Ngakawau and Hector with a proposal to build a water supply scheme from Jones Creek in Birchfield to the end of Hector.

The proposal was refused because of cost, £28,000 and the residents of Granity already had their water systems in and running.

The Ngakawau-Hector residents decided to build their own supply from Dean Stream north of Hector.

As the Community Centres were just being established at this time, the Community Centre started lobbying the Government for finances. After going to the Ministry of Rehabilitation and the Ministry of Works, the Ministry of Works Minister passed it on to the Minister of Mines.

The Ministry of Mines were forthcoming but conditions were put on the Community.

In a letter from the Minister of Mines to the Chairman of the Buller Mining Districts Community Centre dated 28 May 1948 it states,

*“it would appear that the Local Body is the proper party to consider any proposals for the establishment of a water supply scheme and I would suggest that the efforts of the Community Centre and others concerned should be directed first towards securing the **support** of the County Council to the scheme or some scheme which the local body would **approve** of. It would not be possible for State assistance to be extended to any proposals for a water supply scheme which had not been **approved** of by the local body.*

The conditions were,

1. The source of the water would have to be certified as being free from present and future contamination from mining and by analysis that the water is shown to be fit for human consumption.

The reply from the Chairman of the Buller Mining Districts Community Centre, dated 22 June 1948 is in the blue print.

1. The water that is proposed to use was certified as being free from contamination by analysis about 20 years ago and it is miles away from any mining operations.

2. Whether the supply would be adequate for the additional State Houses which maybe erected in the locality.

2. There is an adequate supply for twice the number of homes in the district and a further supply of about the same quantity about a mile further along the road north of Dean Stream.

3. The engineering details of any scheme adopted would certainly require careful checking.

3. The County Engineer has carefully inspected this stream at various intervals during dry weather and there is no doubt that the water continues to run after 6 weeks with no rain. The water springs out from the hill over granite country.

4. Consideration would seem to be necessary as how the job is to be done, since voluntary labour is not always satisfactory.

4. The people in the area to be served don't care how the job is done as long as it is done at once. The reason they volunteered to provide the labour was so that they could get the water without delay.

5. An annual contribution to be made by the householders as a water charge to meet the cost which the local body would incur also needs consideration.

**5. The people in the community are prepared to pay the average annual water rate as charged for this service in other parts of New Zealand.
(this was called a water levy and set by the Community.)**

Also in a letter from the Under Secretary of Mines to the Minister of Works it states,

*"In my opinion the Local Body is the proper party to consider the proposal in the first place and efforts of the Community Centre and others concerned should be directed towards securing the **support** of the County Council to its scheme or some scheme which the Local Body would **approve** of"*

In a letter from the Minister of Mines to the Stockton Miners Union Secretary it states,

*" It has to be recognised that it would be unlawful, as well as unwise, to install a water supply scheme which did not meet the **approval** of the Local Body"*

Mr Austin, Engineer from the Stockton Colliery draw up the plans and these were sent to Mr Schadick, Buller County Council Engineer . Mr Schadick checked over the plans and gave some recommendations.

These recommendations were,

1. The depth of the reservoir should be reduced from 8 to 5 feet.
a reinforced concrete tank 24 x 16 x 5 feet in two compartments.
The capacity would be 12,000 gallons, which would be approximately two days supply and this should be sufficient for the reason that the stream is rarely in flood for long periods.
2. To give a reasonable flow from at Ngakawau, he recommends that the size of the pipe from the reservoir to the south end of the Ngakawau Bridge be 5 inch pipe, from there to Morris Creek be 3 inch pipe, from there to the end house on the main road be 1 ½ inch pipe.
3. His Estimate of costs are less than originally stated by Mr Austin.

The cost of the Water Scheme was estimated at £7,500.

A Subsidy of one to one was arranged. The Ministry of Mines financed £3,750 for the Water Supply Scheme.

Government approval for the Subsidy was reported to all parties in February 1949.

The Buller County Council were unable to procure funds for this project.

The Community paid for the other half of the Subsidy with a payment from the residents in the community who were connected to the water scheme.

The Buller County Council assisted with technical support so the water system would comply with the standard of the day.

The Water Scheme was built with Voluntary Labour and because of this voluntary labour, a saving of £1,300 was acquired.

Instead of recovering the full payment of £3,750, it was now only £2,450. The residents decided to recover the money themselves with a payment of at least £20 from each of the 126 households.

An additional yearly maintenance charge was set as 'at least £1.'

The Buller County Council collected this money on behalf of the residents.

The Water Supply Scheme was opened on November 10 1950.

In April 1952 the Community had repaid the full balance of the £2,450 and there was a refund forwarded to the Buller Mining District Community Centre from the Buller County Council of £9.

The assumptions made in the Buddle Finlay Report 2016 referring to the Counties 1956 Act is irrelevant as our Water Supply System was **private** and **fully operational** before this Act was implemented. (refer to above paragraph)

Refund: an amount of money that is given back to you, especially because you have paid too much for it or you are not happy with the product or service.

In the 1980s the Water Supply System was upgraded with plastic pipe.

The Cost of this upgrade came from our Water Levy money, a Community Centre Loan and the Coal Mining Industry Welfare Council. No money was acquired from the Buller County Council.

It is also shown to be a Private Water Supply Scheme in Minutes from a Buller District Council meeting in 1991.

In the Buller District Council LIM reports from 1997 – 2016 it also stated that the Ngakawau-Hector Water Supply was a **locally owned and operated water supply and is overseen by a small ratepayers group**. This was removed by the Buller District Council in 2016

From the inception of the New Zealand Drinking Water Register, the Community/Society have been on the New Zealand Drinking Water Register as a Private Water Supply Scheme providing/supplying water to the residents of Ngakawau and Hector. (first registered October 6 1994)

This indicates that **Section 130 of the Local Government Act** is also irrelevant as the Community were providing/supplying water to themselves from 1994 – 2015. After 2015 the Ngakawau-Hector Water Society Inc were providing/supplying water to it's members.

The Buller District Council and the other Ratepayers of the District have no ownership of either the cash reserves or the assets of our Water Supply Scheme as the water scheme is operated under a Closed Account. (held within the Buller District Council for the Community) These cash reserves have come from those on the water scheme with no other ratepayer input.

Given that the Buller District Council and other Councils in New Zealand are creatures of statute and can only make decisions by “ resolution” of Council, how is it, that the onus is on our community to come up with evidence to show that we own our own water supply scheme and funds.

Would it not be easier for the Buller District Council to supply evidence that ownership was transferred to the Buller District Council from the Community.

If no “ resolution “ can be found of the Community transferring ownership to the Buller District Council, **then it did not happen.**

So the question is.

How and when, did the Buller District Council assume ownership of our Water Supply Scheme?!!

- All information has been acquired from historic letters and documents from the years 1946 – 1952.
- 1984- 1986
- 1991
- 1994 – 2019

PARLIAMENTARY LIBRARY

RESEARCH REQUEST



PARLIAMENTARY SERVICE
Te Ratonga Whare Pāremata

Date:	17 March 2017
Prepared for:	Jess Fiebig
Prepared by:	
Your request:	We have had a query regarding the Resource Management Act – under section 386 Existing rights and authorities under Water and Soil Conservation Act 1967. The constituent asked if the water right authority for the West Coast expires in 10 years or 35 years?

Jess,

The key sections of the RMA are highlighted below. There were two types of permits “carried over” from the Soil and Water Conservation Act 1967 regime in the RMA:

- Those that would not expire by the 35th anniversary of the date of commencement of the RMA (which received royal assent on 22 July 1991) were deemed to finally expire on the 35th anniversary of the RMA (which is 22 July 2026)
- Those that would not expire by the 10th anniversary of the date of commencement of the RMA (which received royal assent on 22 July 1991) were deemed to finally expire on the 10th anniversary of the RMA (which was 22 July 2001).

I am unsure of the exact rationale used in determining these two expiration periods. I would need to track down some of the initial departmental reports on the RMA legislation.

However, if your constituent is concerned about a current permit that was “carried over” from the Soil and Water Conservation Act regime to the RMA regime, then this **must be** a 35th anniversary permit (which expires in 2026) rather than a 10th anniversary permit which will have expired in 2001.

Resource Management Act 1991

386 Existing rights and authorities under Water and Soil Conservation Act 1967

(1) Except as provided in subsections (2) to (7),—

(a) every right—

(i) granted under section 21(3) of the Water and Soil Conservation Act 1967; or

(ii)

deemed to be so granted by virtue of section 58(1) of the Water and Soil Conservation Amendment Act 1988; or

(iii) referred to in subparagraph (vii) of section 365(d)—(in this section called an **existing right**); and

(b) every authority under section 21(2) or section 21(2A) of the Water and Soil Conservation Act 1967 (in this section called an existing authority); and

This information is provided to assist members of Parliament in the fulfilment of their parliamentary responsibilities.

Parliamentary Library +64 4 817 9888 reference@parliament.govt.nz

(c) every right—

- (i) referred to in section 21(1) of that Act that was granted during the period commencing on 10 September 1966 and ending with 31 December 1968; or
- (ii) expressly authorised by any other Act (other than the Tasman Pulp and Paper Company Enabling Act 1954) or Provincial Ordinance before the passing of that Act in respect of any specified water; or
- (iii) referred to in subparagraphs (vi) or (viii) of section 365(d); or
- (iv) deemed to be granted under section 21(3) of the Water and Soil Conservation Act 1967 by virtue of section 25(2)(d) of the Water and Soil Conservation Amendment Act (No 2) 1971 (in this section called an **existing authority**)— that is in force immediately before the date of commencement of this Act shall be deemed to be—

(d) a coastal permit, where it relates to a coastal marine area; or

(e) where it does not relate to a coastal marine area—

- (i) a water permit, if it authorises something that would otherwise contravene section 14; or
- (ii) a discharge permit, if it authorises something that would otherwise contravene section 15—granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act) by the appropriate consent authority; and the provisions of this Act shall apply accordingly.

(2) Where a permit resulting from an existing right would, but for this subsection, not expire by the 35th anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the 35th anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

(3) Where a permit resulting from an existing authority would, but for this subsection, not expire by the tenth anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the tenth anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

...

Compiled by:

Research Analyst – Economics, Society and Infrastructure Team
Parliamentary Library

NAGER: OPERATIONS REPORT TO OPERATIONS STANDING COMMITTEE MEETING:
FEBRUARY 1991

B.C.C. Water Reserve Fund

In the past the former Buller County Council ran a Water Reserve Fund as a special fund. The fund existed for capital upgrading of the various water supplies in the county and received income each year by way of a charge per consumer. The last time any expenditure was made out of the fund was in the year ended 31 March 1982 and the last time any charge was made for the fund was in the year ending March 1984. Since then the fund has been accruing interest and the balance at 30 June 1990 was \$11,734.04.

A Reserve Fund was run for and levied from consumers in the following areas.

The number of consumers as at 1 April 1981 are listed beside each:

- Waimarie - 36;
- Okawau/Hector - 148;
- Waimangaroa - 113;
- Longham Street/Orowaiti - 219;
- Porters Beach - 190.

The first three areas are private supplies, paid for through the rates system. The other two are former Buller County areas which are run as an extension of the Westport supply.

The three private supplies and the current Westport supply, now run as a single supply area, are run as separate accounts within Council's general ledger and have balances which carry forward each year. There is, therefore, no necessity for the maintenance of a separate Water Reserve Fund and it should be discontinued and the fund allocated to the areas from which they were raised.

Recommendation

That the former Buller County Council Water Reserve Fund be discontinued, with the balance to be paid to the Waimarie, Okawau/Hector, Waimangaroa and Westport water supply accounts on a pro rata basis according to the number of suppliers who contributed to the fund as at 1 April 1981."


Ross
NAGER: OPERATIONS

Resolved: "That Council considers as part of the 1991-92 estimates the legalisation of Manns Road, Birchfield."

J.H. Bain-Adams/J.H. Clayton

4.11. Director: Technical Services Report on Extra-Ordinary Water Use (R5/17)

In reply to a question from Cr Hawes, the Manager: Operations advised that in the case of the Reefton, Cape Foulwind, Westport and Little Wanganui water supplies the above charges would apply. However, because the other were privately owned the charges would be set by the Committees themselves. Cr Coll noted that it may be necessary for the Waimangaroa, Waimarie and Ngakawau Committees to hold an extraordinary meeting to set such charges. His Worship the Mayor expressed the view that non-profitmaking organisations should be granted exemption on the occasion that they needed a single tanker of water. The anomaly of an administration charge of \$15 in comparison to the \$1.80 charge for the tanker of water was highlighted by Cr Cleaver. However, the District Manager pointed out that this fee was in fact composed of \$8.00 for services staff to supply the hookup to the standpipe and \$7.00 for administration costs.

Recommended: "That Council agrees to supply water to tankers, water carts, and ships on the basis of an extra-ordinary supply. The charge levied for such a supply shall be as set by Council in its corporate plan and being at present \$0.257/m³ with an administrative fee of \$15 per invoice."

J.H. Clayton/F. Hawes

As the result was not unanimous, voting being 4 - 1, the matter is to be debated by Council.

4.12. Director: Technical Services Report on Land Transport Programme 1991 - 92 Statement of Intent (R5/17, T4/3/3)

His Worship the Mayor reiterated unfavourable comments previously made regarding the amount of staff time spent on this type of 'bureaucratic' exercise. In the course of a digression on accrual accounting, His Worship the Mayor asked whether this entailed the payment of G.S.T. prior to collecting the money owed. The District Manager noted that as a local authority the Council currently had an exemption which enabled G.S.T. to be paid when rates are collected. The Manager: Corporate Services said he was investigating whether this dispensation would continue.

Resolved: "That the Land Transport Programme 1991/92 Statement of Intent, be adopted."

J.H. Clayton/J.H. Bain-Adams

CLB 9/5/91

Use of Land for Water Supply and Lease Agreement

(Sections 10 and 12, Block II, Ngakawau Survey District)

This use of Land for Water Supply and Lease Agreement ("Agreement")
is executed this 5 day of 10 2017, by and between:

Land Owner; Christopher David Bridger trading as Old Slaughterhouse Company Limited at his residence, Dean Stream, Rd 1 Westport 7891 (hereby known as the "Lessor")

Ngakawau-Hector Water Society Incorporated; who represents the Water Supply Owner's (The Community) (hereby known as the "Lessee")

The Water Supply consists of Reservoirs, Pipe work and its Water Catchment Area ("Infrastructure")

The Society is hereby represented by its elected Chairman and Secretary being:

Chairman: Neville Gear, 5 Main Road Hector, Via Westport. 7822

Secretary: Hugh Tyler, 21 River Road Hector, Via Westport. 7822

Lessor and Lessee hereby agree as follows.

- Site Access:** Lessor hereby agrees to give access and permission to use; the portion of land in which the Infrastructure occupies; upon the terms and conditions set forth in this Lease Agreement.
- Purpose and Use:** Lessee is permitted to operate and maintain a Water Supply for the benefit of the Society Members.
- Term of Lease:** This Water Supply Lease Agreement shall be for the term of the Lessor's ownership of the land or until an Easement can be placed on site at a time agreed to by the Lessee and Lessor.
- Payment:** At an agreed amount 1 between the Lessor and Lessee. Half of this amount with then be paid by 1 July and the other half by the 1 Dec of each year. This may be paid in total by 1 July each year if wished.
- Conditions of Lessee:**
 - The Lessee and any member of that Society have access to the Water Supply for normal maintenance and testing.
 - For other work other than normal maintenance or testing, the Lessee shall contact the Lessor to notify time and duration of work unless it is for an emergency situation and the Lessor is unable to be contacted in a timely manner.
 - Where vehicles and machinery are involved, contact with the Lessor must be made and permission given.
 - The Lessee shall leave the site in a safe and tidy condition after works are completed.
- Liability:**
 - The Lessor shall be released from any responsibility for any harm and damages that occur from the Lessee's infrastructure.

In Witness whereof, Lessor and Lessee hereby agree to the terms and conditions of this Use of Land and Lease Agreement.

Lessor:

C.D. Bridger

Lessee:

N. A. Gear

On behalf of the Ngakawau-Hector Water Society Inc. at this time

Witness:

ASHP

Anne Shirley Parkin
Justice of Peace
216 Nikau Road
RD 1
WESTPORT 7891.
037828191.

hibit that determinand without being likely to present a significant risk to an average person consuming that water over a lifetime

“**medical officer of health** includes any medical officer of health whose health district includes any place to which any intended action or other thing relates (whether or not the action or thing also has effect in another health district)

“**medium drinking-water supply** means a drinking-water supply that is used to supply drinking water to between 5 001 and 10 000 people (inclusive) for at least 60 days per year

“**minor drinking-water supply** means a drinking-water supply that is used to supply drinking water to between 501 and 5 000 people (inclusive) for at least 60 days per year

“**neighborhood drinking-water supply** means a drinking-water supply that is used to supply drinking water to—

“(a) between 25 and 100 people (inclusive) for at least 60 days per year; or

“(b) any number of persons for at least 60 days per year if
“(i) the number of those persons when multiplied by the number of days per year during which those persons receive water from that supply is 6 000 or greater; but

“(ii) the number of those persons is not greater than 100 on 60 or more days in any year

“**networked supplier**—

“(a) means a drinking-water supplier who supplies drinking water from the place where the supply is to 1 or more other properties, by means of a pipe connecting those properties; but

“(b) does not include a bulk supplier

⊗ “**owner**, in relation to any land (including buildings on that land), means the person who is for the time being entitled to the rent on that land or who would be so entitled if the land were let to a tenant for rent and includes—

“(a) the owner of the fee simple of the land; and

“(b) any person who has agreed in writing to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land—

- “(i) once the conditions in the agreement relating to the purchase have been satisfied; and
- “(ii) if subparagraph (i) applies, while the agreement is in force

“point of supply means—

- “(a) in the case of drinking water supplied through a networked reticulated system to any property, whichever of the following is applicable:
 - “(i) the point of supply as defined in any bylaw, supply agreement, or local Act that applies in respect of that system;
 - “(ii) if subparagraph (i) does not apply, the point immediately on the property owner’s side of the toby;
 - “(iii) if neither subparagraph (i) nor (ii) applies and there is no toby, the point at which that system joins the pipework that forms part of—
 - “(A) the water supply utility system from any building on that property; or
 - “(B) any other pipework on that property (whether or not used for the supply of drinking water);
 - “(iv) if neither subparagraph (i) nor (ii) applies, and there is no point referred to in subparagraph (iii), the last point at which the supply of water can be interrupted or stopped before it reaches any tap on the property;
- “(b) in the case of drinking water supplied by a water carrier, the end of the hose or fitting used by that carrier to supply drinking water from that carrier’s means of transportation;
- “(c) in the case of drinking water placed into a container, the point at which the water is placed into that container

“pollution means the introduction of a substance or organism into drinking water or a drinking-water supply system that causes or may cause that water, or as the case requires, water in that system, to exceed the maximum acceptable values for determinands specified in the drinking-water standards

“port includes an anchorage, a harbour, and a wharf

Drinking Water for New Zealand



Managed by ESR for the Ministry of Health.

Data extracted from the National DWO Database.

Register of Drinking-Water Suppliers for New Zealand

Hector/Ngakawau – Supply Structure

District Health Board: Community and Public Health

Component	Code	Name	Population	Grading
Supply:	HEC001	Hector/Ngakawau	219	
		Supply category: Networked Supply		
		Local Authority: Buller District Council		
		Supplier: Ngakawau - Hector Water Society Inc		
Zone:	HEC001HE	Hector	149	u
Plant:	TP00585	Deans Stream Plant		U
- Source:	S00358	Deans Stream, Hector		
Zone:	HEC001NG	Ngakawau	70	u
Plant:	TP00585	Deans Stream Plant		U
- Source:	S00358	Deans Stream, Hector		

Source: Drinking Water Online, as extracted from the National DWO database on 8 Oct 2018.

Drinking Water for New Zealand

Managed by ESR for the Ministry of Health.

Data extracted from the National DWO Database.

Supply Details Explained

Use this page to understand the structure and details that are presented for each supply. for more on compliance, [click here](#).

Note that only Networked, Bulk and RADWS supplies will be shown on this website. Self supply categories are not included.

Overview

The registration details for over 600 networked drinking-water supplies can be viewed on this website. Details are updated regularly from [Drinking Water Online](#), the national database for New Zealand drinking water supplies.

The simplest supply for a community has a water source, a treatment plant (if treated), and a single distribution zone (the pipe network which delivers water to your property.) This would be structured in the Register as:

Supply 1

Zone 1

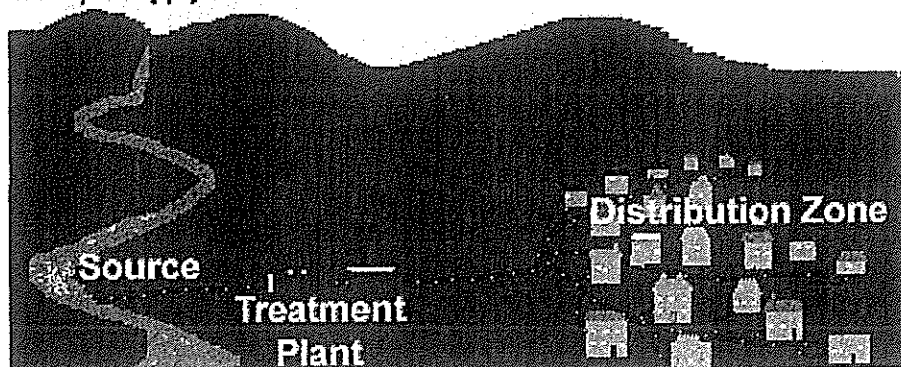
Plant 1

Source 1

This structure represents the small community in the diagram following.

Larger towns and cities often have several sources, plants and zones, all connected in various ways (*move your mouse over the picture to see an example*). As more parts are added, the Register entry for a supply lengthens, but the same line-by-line pattern is used. That is, for any zone you see listed, it receives water from the plant or plants listed under it, and the plants in turn are fed by the sources listed under them.

A simple supply structure



The registration details include population and, optionally where supply population exceeds 500, a Public Health Grading. This consists of a single grading for each treatment plant (eg B) and a combined grading for each distribution zone (eg Ba).

①

What are Zones and Plants?

Distribution Zone: This is all or part of the town or community that receives similar quality water from its taps. If different parts of town have different water sources or conditions, then the supply will be divided into two or more zones. The emphasis is "each zone has similar quality water throughout" and therefore can be evaluated for compliance with the Standards.

Treatment Plant: A zone receives water from one or more treatment plants, which in turn receive water from one or more water sources (rivers, lakes, groundwater, etc.) If there is no physical treatment, for example with some groundwaters, a nominal treatment plant is still defined so this and other details can be recorded against its name.

Local Authority

The local authority shown is the territorial local authority for the geographic area within which the supply is located. While the local authority is normally the owner for city and town supplies, other supplies may be owned privately or jointly by public or community organisations. Therefore, the supplier is shown as a separate line.

Supply Details - Line by Line

Use this as an alternative approach to understanding a typical supply screen.

EXAMPLE

EXPLANATION HERE

Sometown – Latest Published Compliance

District Health Board: Sometown DHB

« Uses the latest published Annual survey data.
« The public health unit that audits supplies in this region

Component	Code	Name	Population	Grading
Supply:	SOM065	Sometown	24,680	

Supply category: Networked Supply

« The supply for a town or city, etc. It has one or more zones, plants and some...

« Cities and towns have networked supplies. There are also bulk, self, specified-self and other types of supplies. This website shows network and bulk supplies.

Local authority: Sometown City Council

« The territorial local authority for the locality. They may or may not be the supply owner.

* Supplier: Sometown City Council

« The owner of the supply

Zone:	SOM065EA	Sometown East	24,680	Bb
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« A distribution zone is the piping network (reticulation) in the streets of a town or locality. A zone should

Ngakawau–Hector Water Supply.

Levy Paid to the Buller District Council. July 1 1995- June 2019

July 1 1995 – June 30 1996.	Levy - \$50.00.	Connections 174.	Total =. \$8,700.00
July 1 1996 – June 30 1997.	Levy - \$50.00.	Connections 174.	Total = \$8,700.00
July 1 1997 – June 30 1998.	Levy - \$50.00.	Connections 174.	Total = \$8,700.00
July 1 1998 – June 30 1999.	Levy - \$50.00.	Connections 174.	Total = \$8,700.00?
July 1 1999 – June 30 2000.	Levy - \$56.00.	Connections 174.	Total = \$9,744.00
July 1 2000 – June 30 2001.	Levy - \$56.00.	Connections 174.	Total =. \$9,744.00
July 1 2001 – June 30 2002.	Levy - \$56.00.	Connections 174.	Total = \$9,744.00
July 1 2002 – June 30 2003.	Levy - \$135.00.	Connections 174.	Total = \$23,490.00 *
July 1 2003 – June 30 2004.	Levy - \$146.00.	Connections 174.	Total = \$25,491.00
July 1 2004 – June 30 2005.	Levy - \$146.00.	Connections 174.	Total = \$25,491.00
July 1 2005 – June 30 2006.	Levy - \$146.00.	Connections 174.	Total = \$25,491.00
July 1 2006 – June 30 2007.	Levy - \$191.00.	Connections 174.	Total = \$33,234.00
July 1 2007 – June 30 2008.	Levy - \$191.00.	Connections 174.	Total = \$33,234.00
July 1 2008 – June 30 2009.	Levy - \$191.00.	Connections 174.	Total = \$33,234.00
July 1 2009 – June 30 2010.	Levy - \$253.00.	Connections 174.	Total = \$44,022.00
July 1 2010 – June 30 2011.	Levy - \$257.00.	Connections 174.	Total = \$44,718.00?
July 1 2011 – June 30 2012.	Levy - \$282.00.	Connections 174.	Total = \$49,068.00?
July 1 2012 – June 30 2013.	Levy - \$322.00.	Connections 174.	Total = \$56,028.00
July 1 2013 – June 30 2014.	Levy - \$322.00.	Connections 174.	Total = \$56,028.00

July 1 2014 – June 30 2015. Levy - \$322.00. Connections 174. Total = \$56,028.00

July 1 2015 – June 30 2016. Levy - \$334.00. Connections 174. Total = \$58,116.00

July 1 2016 – June 30 2017. Levy - \$322.00. Connections 174. Total = \$56,028.00

July 1 2017 – June 30 2018. Levy - \$322.00. Connections 174. Total = \$56,028.00

July 1 2018 – June 30 2019. Levy - \$357.00. Connections 174. Total = \$62,118.00

* Water Supply put on their Asset Books by the Buller District Council.

Total Levy paid from July 1 1995 – June 30 2019

= \$801.879.00

Total Levy paid July 1 2002 – June 30 2019

= \$737.847.00

Total Levy paid July 1 1995 – June 30 2002

= \$64,032.00

Drinking Water for New Zealand

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NZ Processes

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Networked Drinking-Water Supply Registration

The **Register of Drinking-Water Suppliers in New Zealand** provides health professionals, drinking-water professionals and the general public with an authoritative summary of the health-risk status of all networked drinking-water supplies known to the Ministry of Health. "Community drinking-water supplies" means all drinking-water supplies serving more than 25 people for more than 60 days a year.

This Register is maintained by ESR on behalf of the Ministry of Health in the WINZ drinking-water database. This website contains a queryable copy of the Register data, so the [grading of any supply](#) can be shown here, as well as its supply structure.

Registration is undertaken by Drinking Water Assessors at District Health Boards, who work closely with water suppliers to ensure data is accurate and up-to-date.

Registration Details

For each supply, the Register records:

- the name of the supply
- the components of the supply, namely sources, treatment plants and distribution zones
- unique codes for each component (to aid clear identification)
- who owns and operates the supply
- how many people use the supply.

If more than 500 people are served, the *Register* also records:

- the public health grading for the supply
- any substances of public health significance in the supply requiring monitoring.

The public health grading is an evaluation of both the actual water quality and the underlying measures taken to minimise risk. Those measures ensure that the water remains safe and wholesome now and in the future.

Most supplies listed are publicly owned, but some are private. For example, country motor camps or motels serving 25 people or more are expected to be registered. Registration of smaller supplies is voluntary.

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ESR Risk & Response Group Web Solutions © 2019

30 June 2016

Alan Merrett
alan@merrett.nz

Dear Mr Merrett

Register of Drinking Water for New Zealand: Hector/Ngakawau water supply

Thank you for your email dated 6 June 2016 requesting information under the Official Information Act 1982, as follows:

"Under the Official Information Act, I would like to request, who and when, was the Hector/Ngakawau water supply, changed from a Private Community Supply to a Buller District Council Supply, in the Register of Drinking Water for New Zealand."

I advise the following information in response to your request:

On 28th March 2011, ESR received from Community and Public Health a WS01 form (Registration of Drinking Water Supply) concerning the Hector/Ngakawau supply. This was submitted on behalf of the Buller District Council and listed the Council as the supply owner.

The form requested a modification of the existing registration to take into account new population figures for the two distribution zones of this supply (Hector HEC001HE and Ngakawau HEC001NG). The register entry for HEC001 (Hector/Ngakawau community identification code) was amended by ESR on the 28th March 2011.

Yours sincerely



Wim Nijhof
Acting General Manager, Environmental Science

6 September 2016

Alan Merrett
By email: alan@merrett.nz

Dear Mr Merrett

Register of Drinking Water for New Zealand: Hector/Ngakawau water supply

Thank you for your email dated 8 August 2016 requesting information under the Official Information Act 1982, as follows:

"Under the Official Information Act, I would like to ask the ESR why did they change the Drinking Water Register to show that the Hector/Ngakawau water supply was a Local Body supply and not a private Community supply?

Also I would like to request, a copy of all the documentation relating to the making of that decision to change the Drinking water Register.

Thirdly I would like to request, a copy of all the requests or applications, the ESR has received to change the Drinking Water Register for New Zealand relating to the Hector/Ngakawau water supply.

I have now completed my enquiries and advise the following information:

1. *Why did ESR change the Drinking Water Register to show that the Hector/Ngakawau water supply was a Local Body supply and not a private Community supply?*

ESR received a WS01 form on 28 March 2011 from Community and Public Health requesting that ESR make changes to the information in the database regarding the Hector/Ngakawau water supply. The changes were primarily in population figures. However, as the WS01 is the official instrument by which changes to the register are made, and the "owner" recorded on the form received was different from that in the database, this change was also made.

2. *A copy of all the documentation relating to the making of that decision to change the Drinking water Register.*

The only documentation held by ESR that relates to this change in the Register is the WS01 form, a copy of which has already been provided to you.

3. *A copy of all the requests or applications, the ESR has received to change the Drinking Water Register for New Zealand relating to the Hector/Ngakawau water supply.*

Application for Water Supply Registration

(For Network, Bulk, Port/Airport and Self-supplies that elect to register)
Health (Drinking Water) Amendment Act 2007, Section 69K

Please tick (✓).

<input type="checkbox"/>	This is a new registration
X	This is a modification to an existing registration

Name of supply:	Hector - Ngakawau
Supply owner: (may be a company/organisation)	Ngakawau-Hector Water Society Inc

Name of person responsible: (must be a named individual)	Neville Gear		
Position:	Chairman		
Address:	5 Main Road Hector. 7822		
Phone:	021 0400233	Fax:	
Email:			

Name of contact person/organisation:	Hugh Tyler		
Position:	Secretary		
Address:	21 River Road, Hector. 7822		
Phone:	03 7828500	Fax:	
Email:	allanhughtyler@xtra.co.nz		

Supply type/nature of supply (please tick ✓)

Network supply	<input checked="" type="checkbox"/>	Port/airport	<input type="checkbox"/>
Bulk supply	<input type="checkbox"/>	Specified self supply	<input type="checkbox"/>
Prescribed supply	<input type="checkbox"/>		

Maximum daily volume supplied:	70 m ³ /day
---------------------------------------	------------------------

Application for Removal from Drinking-water Register

Application to Director-General of Health under the Health (Drinking Water) Amendment Act 2007,
Section 69N

Name of drinking water supply or water carrier:	Hector / Ngakawau Water Supply
---	--------------------------------

List all applicable registration codes (from Drinking-water Register, eg, the codes for community, source, treatment plant, distribution zone where applicable)

- * HEC001
- * HEC001HE
- * HEC001NG
- * TP00585
- * S00358

Owner of supply or water carrier (may be a company/organisation)	Ngakawau / Hector Water Society Inc
--	-------------------------------------

Person making application to have name removed:	Keith Marshall, Chief Executive Officer, Buller District Council Garry Howard, Mayor, Buller District Council		
Position:	Chief Executive and Mayor of Buller District Council		
Address:	6-8 Brougham Street Westport		
Phone:	03 788 9684	Fax:	
E-mail:	keith.marshall@bdc.govt.nz garry@bdc.govt.nz		

Date form completed:	06 / 09 / 2018	Office use only
		Date registration entered: / /

Please outline why you are applying to be removed from the Register (attach copies of documents related to closure of business and clearly specify date when water ceased to be provided, if applicable).

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OFFICE OF THE MAYOR
Garry Howard

6 September 2018

Tanya McCall
Healthy Environments Manager
Community and Public Health
Canterbury Health Board
CHRISTCHURCH
Email: Tanya.McCall@cdhb.health.nz

Dear Tanya

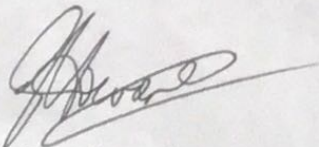
RE: REGISTRATION OF NGAKAWAU/HECTOR WATER SUPPLY

Buller District Council acknowledges due process has not been followed in the change of registration on the water supply register in 2011. As discussed on Monday 3rd September please find attached a WS02 form completed on behalf of Buller District Council to relinquish administration responsibility of the Ngakawau/Hector supply.

Additionally please find a WS01 completed by the Ngakawau/Hector Water Society Incorporated requesting reinstatement in their name as being responsible for the water supply reticulated Ngakawau/Hector.

We would appreciate if this can be undertaken without any further delay.

Kind regards



Garry Howard

Buller District Mayor
Phone 03 788 9684 | Email garry.howard@bdc.govt.nz

Overview of the Ngakawau/Hector Water Supply

General

The Buller County Council merged with the Buller Borough Council in 1989 to form the Buller District Council. During this merger much of the County Council records appear to have been lost. As a result, Councils records on the Ngakawau/Hector Water Supply are sketchy. One of the few historical references to the supply in District Council records show that the Ngakawau/Hector water supply was installed in 1954 by the Buller County Council. The cost was met by a government loan to the County Council, which the County recovered from the Ngakawau/Hector property owners by the charging of water rates.

Although the supply is registered to the Buller District Council, effectively it is managed by the Ngakawau/Hector Water Supply Committee. To reduce costs, routine maintenance such as cleaning the settling ponds, reinstating the inlet system after floods, or some of the day to day maintenance, is carried out by the water supply committee, on a voluntary basis. More major work is done by Councils maintenance contractor or contracted out.

10. Are the water supply assets currently insured?

☒ YES (Provide details below) ☐ NO

Name of Insurance Company Council is a member of the Local Authorities Protection Programme (LAPP) for assets that can not be insured through a traditional insurance company e.g. underground pipes etc, and uses Fraser, Macandrew Ryan as brokers for other insurance needs. Council's policy is to insure for replacement if the asset is to be replaced and to insure for indemnity where it is not intended to replace. Water supplies are insured for replacement.

11. What is the Deprivation Index or Deprivation Assessment of the Community (See your local TAPF for assistance)

9.9

12. Who owns the land that the following water supply components are located on? (Provide details of ownership, easements, any lease or land use agreements, Crown gazette notices, or Maori land order)

1. Source (Bore, Well, or stream abstraction point)

The stream abstraction point is located on land adjacent to Deans Stream. The land is a freehold title and is owned by Old Slaughterhouse Co Ltd, Deans Creek, RD1, Westport, 7891.

The water supply has been located on this creek since 1954. Initially the land was Crown Land administered by Lands and Survey. The present owner took up a lease with Lands and Survey and subsequently freeholded the land. No formal agreement exists for the water supply on this land, however the owner is willing to enter into an agreement. This agreement will be prepared in conjunction with this application for financial assistance.

2. Treatment Plant - As above

3. Distribution System (include relevant maps and clearly show ownership details of the land used in the distribution system)
Once the main leaves the above property the distribution mains are located in legal roads that are vested in the Council. Plans of the distribution system are included in the PHRMP for this supply.

21. Briefly describe the history of the water supply.

The Ngakawau Hector supply was commissioned by the Buller County Council in 1954 using loan money. The loans and the operating costs were met by rates being targeted to those members of the community who were connected. All dwellings that are within the reticulated area were required to be connected and empty sections were charged a 50% water rate.

The local community became involved in the operation and administration of the supply in an effort to keep minimise costs. They formed a water committee which is still operating today. This committee are involved in determining upgrades etc to their supply and undertake the day to day maintenance of minor repairs and also keeping the intake clear and flowing. Any major repairs are undertaken by the Councils utility contractors.

The Buller County was one of the local authorities that were amalgamated in 1989 to form the Buller District Council.

Ngakawau-Hector Water Society Inc.

I / We _____ am the Owner / are the Owners
of the Property at _____

of which the Ngakawau-Hector Water Supply is connected to. This connection qualifies me
as a Member / us as Members of the Ngakawau-Hector Water Society Inc.

The Ministry of Health acknowledge the Ngakawau-Hector Water Society Inc as being the
Owners of the Ngakawau-Hector Water Supply and the Ngakawau-Hector Water Society Inc
are the supplier and provider of water to my / our property.

As the Owners of the Ngakawau- Hector Water Supply, the Ngakawau-Hector Water Society
Inc ask the Buller District Council that all monies currently being held in Our Closed Account
be transferred to the Society's Account at the Nelson Building Society.

If the Buller District Council do not acknowledge the Ngakawau-Hector Society as owners of
the Ngakawau-Hector Water Supply, I / We will be withdrawing our Water Levy Money
currently being taken from our Rates.

Yours thankfully