

Wairau River Conservation Notice appealed

by D J Jellyman

The application for a Local Water Conservation Notice for the Wairau River lodged in November 1984 by the Marlborough Acclimatisation Society (MAS) and the Council of the South Island Acclimatisation Societies, was heard before a special tribunal of the Marlborough Regional Water Board (MRWB) in June 1986.

The delay between the lodging of the application and the hearing was due largely to a need to clarify the application.

Application amended

Initially MRWB considered that the terms of the application would require flow criteria to be set for all lower river

tributaries. This was not the intention of the applicants and an amended application was publically advertised in August 1985.

This application stated that protection of the Upper Wairau River was sought, and that a minimum flow should be set for the lower river (downstream of the

Goulter River confluence). This flow should be adequate to maintain fish passage and instream living requirements, as well as maintain conditions for angling and other recreational uses.

Tribunal

A total of 23 Crown agencies and divisions, two local authorities, and 33 individuals and organisations made submissions or objections. As a consequence MRWB established a special tribunal to deal with the application and make a recommendation to the Board.

The tribunal consisted of four MRWB members, plus Mr Malcolm Conway (former NWASCA member) as the independent chairman.

All parties accepted the high recreational value of the Wairau River, as well as the importance of the river and associated aquifer as a source of irrigation water for horticulture on the lower plains.

Issues

Evidence and discussion focussed on two major issues. The first was the degree of protection needed for the valuable headwater trout fisheries and spawning grounds, and whether this protection could/should be compatible with the plans of the Marlborough Electric Power Board (MEPB) to construct a hydro scheme in the area.

Secondly, was it necessary to set a minimum flow (or flow regime) for the lower river or to simply recognise the criteria to be protected and leave the flow-setting to the MRWB's forthcoming management plan.

Total protection requested

The applicants requested total protection of the upper river in its existing state

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Hell's gate in the upper Wairau River, which is part of the river sought to be protected by the LCN application.

and considered that construction of a power scheme would seriously interfere with the annual spawning migration of brown trout, downgrade the existing fishery, and result in the loss of angling over the 11.5 km of river adjacent to the power canal.

FRD supported the applicants' concerns and highlighted the need to maintain fish passage throughout the upper river.

Cawthron Institute, appearing on behalf of MEPB, endorsed the importance of the upper river fishery but considered that a 2 cumec residual flow (compared with the current annual mean flow of 26.5 cumecs) would be adequate to maintain both fish passage and the fishery itself.

Questions about the efficiency of fish pass design and operation were answered by Mr Peter Aitken, a consulting engineer from Scotland, who was brought out for the hearing by MEPB.

Minimum flows

Minimum flows in the lower river occur in February and March, with the lowest recorded mean daily flow of 2.6 cumecs. The applicants were concerned that, given a seasonal water shortage in low-flow years, the instream values of the lower mainstem river should be protected by the setting of an adequate minimum flow.

In the absence of studies to determine flow requirements, there was a considerable difference of opinion between coun-

sels about the appropriate way of dealing with this part of the application.

Evidence was presented by MRWB that the mode of operation of the MEPB's Branch River hydro scheme during periods of reduced flow, i.e. by storing water for generation over the peak-loading period, produces a noticeable pulse of water down the entire lower river.

MAF and Marlborough United Council stressed the need to ensure that a reliable supply of irrigation water be available to the expanding horticulture industry — virtually all present irrigation water is drawn from the aquifer and plans for future needs (up to 6 cumecs) involve recharging of the aquifer from catchment tributaries.

Draft notice

The tribunal's decision was conveyed to the MRWB and a draft Local Water Conservation Notice was advertised by the Board in mid-October 1986.

In brief, the draft notice stated that the application for the lower river had been declined but a protection notice had been granted for the upper river.

The conditions of the draft notice for the upper river did not preclude damming but required that a minimum flow of 3 cumecs be maintained and that discharge from any scheme did not change the natural daily mean flow by more than plus or minus 15% of the amount that the daily mean exceeded 3 cumecs. The latter requirement was to ensure that any hydro scheme would essentially operate as a run-of-the-river scheme and not as a

storage/peak load scheme which could exacerbate daily flow fluctuations presently caused by the Branch River scheme.

Other provisions within the draft notice required the provision of adequate fish passage, authority for MRWB to grant water rights to replace existing ones, and to grant rights and general authorisation for river and road maintenance. Costs over and above \$12,000 were to be equally shared by the applicants and MEPB.

Objections

Both the applicants and MEPB lodged objections to the draft notice within the prescribed 28 day period.

The Society's objection was based on the lack of a protection notice for the lower river and the failure of the draft notice to explicitly prohibit damming of the upper river.

MEPB objected to those sections of the draft notice which related to authorisations for damming in the upper river i.e. statements relating to minimal disruption of instream habitat were too restrictive; a 3 cumec residual flow was excessive and should, at most, be restricted to the time of upstream fish passage; the 15% flow fluctuation regime was unfounded and would impose considerable restrictions on generation procedures.

It is not anticipated that the Planning Tribunal will hear the appeal until at least mid-1987. □

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