

## Submission on an application for a Water Conservation Order for the Ngaruroro and Clive rivers (Form 30)

### The Application

The New Zealand Fish and Game Council, the Hawke's Bay Fish and Game Council, Ngāti Hori ki Kohupatiki, Whitewater New Zealand, Jet Boating New Zealand, and the Royal Forest and Bird Protection Society of New Zealand (the applicants) have lodged an application with the Minister for the Environment for a Water Conservation Order (the Order) for the Ngaruroro and Clive rivers (the application).

The application concerns the entire length of the Ngaruroro River, the tributaries and hydraulically connected groundwater to the Lower Ngaruroro River, and the 7km long Clive River, in Hawke's Bay. The application is in recognition of the following outstanding values: significance in accordance with tikanga Maori; cultural and spiritual purposes; habitat for rainbow trout; angling, amenity and recreation; habitat for avifauna; habitat for native fish; whitewater kayaking and rafting amenity and recreation; jet boating amenity and recreation; wild, scenic and natural characteristics; and scientific and ecological values. The applicants seek protection of these values through a number of conditions contained in the draft Order appended to the application.

Submissions on this application must be received by the Special Tribunal by 4pm on the 24<sup>th</sup> of August 2017.

### 1. Submitter(s) Details

First name:	Bruce
Surname:	Mackay
Organisation (if applicable):	Heinz Wattie's Limited
Email address:	
Telephone number(s):	
Postal address:	

Please note, if you have provided your email address we will use this as your address to contact you.

### 2. The specific parts of the application my/our submission relates to are:

Please tell us the specific parts of the application your submission relates to. If you require additional space, please attach further pages clearly labelled with your name

See attached pages

### 3. What is/are your view/s on the application?

Please select one or more:

<input type="checkbox"/> Support	<input type="checkbox"/> Support but prefer to preserve a different but related water body in the same catchment <sup>1</sup>	<input type="checkbox"/> Support but prefer to preserve different features and qualities of the water body <sup>1</sup>	<input checked="" type="checkbox"/> Oppose <sup>2</sup>	<input type="checkbox"/> Neutral
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Please provide details. See attached pages

<sup>1</sup> In giving reasons for these preferences, you must refer, if practicable, to the matters set out in sections 199, 200 and 207 of the Resource Management Act 1991. You must also describe the provisions that you think should be included in the Order and the effects that those provisions would have on the water body.

<sup>2</sup> If you oppose the Order, you must give reasons why you consider that the Order is not justified in terms of sections 199 and 207 of the Resource Management Act 1991.

## Water Conservation Order: Ngaruroro and Clive Rivers Submission Form

## 4. I/we seek the following recommendation from the Special Tribunal to the Minister for the Environment

Please select one or more:			
<input type="checkbox"/> Grant the Order	<input type="checkbox"/> Grant the Order with changes	<input checked="" type="checkbox"/> Decline the Order	<input type="checkbox"/> Neutral
Please provide details (including the general nature of any changes sought to the Order). If you require additional space, please attach additional pages that are clearly labelled.			
See attached pages			

## 5. Would you like to present your views on this submission to the Special Tribunal at a public hearing?

Please select one or more:		
<input checked="" type="checkbox"/> I/we want to present my/our views at a public hearing.	<input type="checkbox"/> I/we do not want to present my/our views at a public hearing.	<input checked="" type="checkbox"/> If others make a similar submission, I/we would consider presenting a joint case with them at a hearing

## 6. Your signature, or signature of person authorised to act on your behalf

Signature

Date 24 August 2017

Please note that a signature is not required if you make your submission by electronic means

## Notes to Submitters

- Your submission must be received by the EPA by 4.00 pm, 24 August 2017;
- A copy must also be sent to the applicants as soon as practicable after you have served your submission on the EPA (receiving them on behalf of the Special Tribunal); and
- The Special Tribunal may require you to provide further information on your submission.

Using the [online tool \(www.epa.govt.nz/wcsubmit\)](http://www.epa.govt.nz/wcsubmit) is the preferred way to make a submission. When you use this tool, you will be emailed a copy of your submission. Please ensure you send a copy of your submission to the applicant via this email address: [REDACTED] If you cannot use our online form, please post or email a copy to the EPA and to the applicant:

EPA contact details (receiving them on behalf of the Special Tribunal)
<a href="mailto:WCN.Ngaruroro@epa.govt.nz">WCN.Ngaruroro@epa.govt.nz</a>
Please include 'Submission: (your name), Water Conservation Order for the Ngaruroro and Clive rivers' in the subject line.
Attention: Water Conservation Order Team Environmental Protection Authority, Private Bag 63002, Waterloo Quay, Wellington 6140, New Zealand.

## Privacy statement

All of the personal information you provide on this form will be held by the EPA at 215 Lambton Quay, Wellington. It will be used by the EPA for the purpose of administering the application referred to in your submission. This includes providing a full copy of your entire submission (including name, address, phone number and email address) to the Special Tribunal and to the applicants. Your submission may also be provided to other parties directly involved in the Special Tribunal process. By signing this submission form you agree that you are participating in a public process, and that your personal information may therefore be made publicly available at the public hearing. Your personal information will not be published on the EPA, or any other, website. By completing this submission form, you give the EPA permission to use the information for the purpose stated above. You have the right to access and correct personal information held by the EPA. The information supplied in your submission may be released by the EPA under the Official Information Act 1982 (OIA) if a request for the information is made to us in the future. If you do not wish for your information to be released under the OIA, you must indicate that in your submission to us. You must indicate which parts of your submission you do not wish to be released and the reasons why the release of that information would be likely to adversely affect you.

## Introduction

This submission made by Heinz Wattie's Limited has been prepared with the assistance of Mike Pretty (Managing Director, Heinz Wattie's Limited, New Zealand), Timothy Agnew (Agricultural Manager, Heinz Wattie's Limited, Hastings) and Bruce Mackay (Senior Crop Supply Agronomist, Heinz Wattie's Limited, Hastings).

## Summary of Heinz Wattie's position

- 1 Heinz Wattie's is a significant purchaser of crops and food produce in both the Hawke's Bay and national economy. Heinz Watties Hawke's Bay/Hastings produces 195,600 tonnes of finished goods annually, and purchases \$20 million worth of fruit and vegetables from Hawke's Bay growers annually in order to do so. It directly employs 1,600 employees (including seasonal employees) on a regional level and over 2,040 employees nationally (seasonal employees included).
- 2 Heinz Wattie's has been involved in the collaborative process being undertaken by the Hawke's Bay Regional Council (HBRC) consultative group known as TANK. This is a group of approximately 30 community representatives who are attempting to achieve a collaborative agreement on the future management of land and water resources in the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments.
- 3 Heinz Wattie's supports HBRC's submission that the TANK process should be allowed to run its course, the outcome of which will be a change to the Regional Resource Management Plan (RRMP), which will be the subject of public submissions and a hearing to determine values, freshwater objectives, policies, rules and limits to manage the land and water resources.
- 4 The draft Water Conservation Order and the limits it sets as sought by the applicants is inconsistent with the National Policy Statement Freshwater Management 2017.
- 5 Heinz Wattie's does not oppose the water conservation order sought in respect of the upper Ngaruroro River. It opposes the water conservation order sought in respect of the lower Ngaruroro and Clive Rivers.
- 6 If the water conservation order in respect of the lower Ngaruroro and Clive Rivers is made in the form sought by the applicants, it will significantly affect growers' security of supply for irrigation water which in turn will affect the future supply of crops to Heinz

Wattie's Hastings processing factory, putting the jobs of the 1,600 employees who work there at risk.

### **Heinz Wattie's Limited**

- 7 Heinz Wattie's Limited is one of Hawke's Bay's most significant businesses. Its business is primarily food production, canning or packing fruit and vegetables into alternate mediums (such as frozen product, sachets, pouches, bottles or jars of product). It has been producing food for export and domestic sale since 1939.
- 8 Heinz Wattie's provides employment for 950 permanent employees, 200 temporary employees and 650 seasonal workers at its factories in Hastings. It is an indirect employer of three times that number of people, most of whom are involved in the supply of produce and support industries such as transport, logistics, distribution, engineering etc. Heinz Wattie's pays around \$52 million in salaries and wages in Hawke's Bay annually.
- 9 Heinz Wattie's purchases around \$20 million in fruit and vegetables from Hawke's Bay growers annually, and approximately \$80 million to \$100 million of other ingredients from national suppliers. It imports significant volumes of other ingredients from around the world to process those fruit and vegetables into over 200 different products. Heinz Wattie's produces around 195,600 tonnes of finished goods annually at its Hastings factory.<sup>1</sup>
- 10 Heinz Wattie's contributes between 20% -25% of Hawke's Bay's gross domestic product, which amounts to about \$1.25 billion annually. In addition, it invests around \$20-\$25 million annually in capital projects to extend its processing facilities and enhance production.
- 11 Heinz Wattie's Hastings factory has a finely balanced infrastructure that relies on scheduled supplies of produce that are targeted at optimum growing intervals, in sufficient quantities to fully utilize all of its facilities.
- 12 The carefully determined delivery schedule optimizes crop production and also allows multiple products to be processed at any one time and specific products to be produced,

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<sup>1</sup> Its processing facilities at Christchurch and Auckland produce different food ranges at significantly smaller volumes annually. Note that Christchurch processes vegetables for freezing (peas, beans, corn) and is totally reliant upon irrigated farms in Canterbury.

such as fruit salad with peaches and pears concurrently, canned tomato variants and tomato paste, beetroot variants with diced, sliced and whole products (and so on). As a result, an impact on the scheduled supply of one product will have a potential impact on a number of other products.

- 13 By way of illustration, tomatoes and beetroot are a cornerstone product for Heinz Wattie's. Tomatoes directly or indirectly account for about 30% of the factory's production. Tomatoes are processed fresh and are used in the year round manufacture of Heinz Wattie's sauce, baked beans and spaghetti, soups, etc. An impact on the potential supply of one or both of those products puts the whole business in jeopardy.
- 14 A significant change to the Hastings operation will affect the remaining Heinz Wattie's New Zealand business.<sup>2</sup> At the very least there would be a change in Heinz Wattie's Hawke's Bay's operations scale and footprint, agriculture department scale and can supply scale impact at James Strong (on site in Hastings). There would also be changes to the company's national management structure (logistics, procurement and administration).

## TANK

- 15 The TANK process was initiated by Hawke's Bay Regional Council in response to recommendations arising out of the fourth report of the Land and Water Forum.<sup>3</sup>
- 16 Bruce Mackay (Senior Crop Supply Agronomist, Heinz Wattie's) has been a member of the TANK group since its inception in 2012. Akenhi Paipa and Vaughn Cooper, who are signatories to the WCO application, have been members of the TANK group since its inception. Neil Eagles (of Forest & Bird) has also been a member since the TANK group's inception. Peter MacIntosh and Nathan Burkepile (Fish & Game) have been members and attended 11 and 19 meetings respectively.

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<sup>2</sup> Heinz Wattie's Christchurch facility primarily produces frozen and dehydrated vegetables, some of which are sent to Hastings for packing or use in recipes.

<sup>3</sup> In particular, recommendation 7, which stated that "councils should work collaboratively with relevant groups when commissioning and developing the data and models that are used for decisions on managing within limits in their regions and use co-designs where appropriate. Council's accounting systems, data and modeling should be transparent and accessible for all stake holders to test and analyse water management decisions.

- 17 The application documents refer to discussions had with irrigators and growers – via Hawke's Bay Regional Council's TANK group and as a separate group - about the values identified for protection in the WCO proposal.<sup>4</sup> The application states that:<sup>5</sup>

Irrigators/growers expressed concerns about what impact the WCO would have on the current and future use of their lands (both developed and undeveloped) and their access to water for irrigation and crop processing. However, there is significant congruence in the values held by those sought to be protected through the WCO.

- 18 In response to this, Heinz Wattie's notes:

- 18.1. There had only been a single meeting between Fish & Game (also represented by Catalyst Group) and five members of TANK (Jef van Beek, Lesley Wilson, Xan Harding, Mike Glazebrook and Bruce Mackay), two Hawke's Bay Regional Councillors (Peter Beaven and Tom Belford) and one grower (John Bostock). A draft application was discussed (but not presented). Those present agreed in principle to some of the aspects discussed, in particular relating to the upper Ngaruroro River.
- 18.2. The discussion, and any conditional support, was made without reference to the detail of any application, and without the benefit of having seen the application which has since been lodged by the applicants.
- 18.3. The TANK group's objective is to improve fresh water management. It has to take into account environmental, social, cultural and economic values when (for example) minimum flow levels and allocable volumes are set. In contrast, the WCO application is driven entirely by environmental concerns to the exclusion of social and economic values, and the needs of primary and secondary industry and of the community generally.<sup>6</sup>

### **Application in respect of the upper Ngaruroro River**

- 19 The application differentiates the upper Ngaruroro River<sup>7</sup> from the balance of the Ngaruroro and Clive Rivers.

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<sup>4</sup> Paragraph 362 on pages 97 and 98 of the application

<sup>5</sup> Paragraph 363 on page 97 of the application

<sup>6</sup> The later being a consideration to which the Special Tribunal must have particular regard when considering an application for a water conservation order: see section 207(b) of the Resource Management Act 1991.

<sup>7</sup> Described in paragraph 1(a) of the application

- 20 The upper Ngaruroro River has had minimal artificial interference with the exception of some gravel extraction.
- 21 Heinz Wattie's supports the WCO application in respect of the upper Ngaruroro River, subject to one exception (see paragraph 24 below).
- 22 The applicants propose a prohibition on any damming of the main stem of the upper Ngaruroro River and all of its tributaries and contributing waters.
- 23 Water storage and augmentation of water flows in the river is one of the many options being discussed by the TANK collaborative group. Heinz Wattie's submits that the prohibition on damming should not apply to tributaries in the upper Ngaruroro River, provided that the values of the main stem are protected.

#### **Application in respect of the lower Ngaruroro River**

- 24 Heinz Wattie's main concern is with the draft WCO sought in respect of the lower Ngaruroro River.

#### *WCO not warranted*

- 25 The purpose of a WCO is to recognize and sustain:
- 25.1. Outstanding amenity or intrinsic values which are afforded by waters in their natural state.
- 25.2. Where waters are no longer in their natural state, the amenity or intrinsic values of those waters, which in themselves warrant protection because they are considered outstanding.<sup>8</sup>
- 26 The lower Ngaruroro River has been substantially modified in recent times with stop-banking, significant gravel extraction at the Monument, Highway 50, Mere Road and Gordon Road, gravel beach raking, channel straightening, tree removal, and the significant diversion of the Ngaruroro from Chesterhope to Waitangi, away from Clive, in 1969. It has been so significantly modified over recent years that there are few intrinsic values remaining. The waters cannot be said to be in their natural state, so any

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<sup>8</sup> Section 199(1) RMA.

WCO can only recognize and sustain amenity values, and then only if they warrant protection because they are considered outstanding. That is not the case here.

*Scope of draft WCO*

27 The draft WCO captures:

27.1. Groundwater which is hydraulically connected to the main stem of the lower Ngaruroro River.<sup>9</sup>

27.2. The tributaries to the lower Ngaruroro River.

28 HBRC scientists believe that most groundwater in the Heretaunga Plains originates from the lower Ngaruroro River, with most groundwater recharge occurring along the stretch of the river from roughly the Monument at Kereru Road, to the blind end of Ormond Road. The draft WCO therefore captures all surface water connected to the Ngaruroro River and all groundwater under the Heretaunga Plains.

*Increase in minimum flows*

29 The WCO application seeks to increase minimum flows at Fernhill from 2400L/s to 4200L/s.<sup>10</sup> This increased minimum flow would apply to any new resource consent to take water that does not replace resource consents in place at the time the order comes into force. Resource consents that replace consents in place at the time the WCO comes into force would remain subject to a minimum flow of 2400L/s.

30 In effect, this means that existing consent holders may obtain one further consent term<sup>11</sup> with a 2400 L/s minimum flow. Any consents sought after that will be subject to the higher minimum flow (4200 L/s).

*Change in allocable volume*

31 In addition to that, the draft application proposes an allocable volume (or rate of take) of 1,581L/s at flows less than three times the naturalized median at Fernhill (70,986L/s).<sup>12</sup>

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<sup>9</sup> Schedule 3 of the draft water conservation order.

<sup>10</sup> Paragraph 9(c)(i) draft WCO

<sup>11</sup> The term of that consent would be set by HBRC and could be a limited term of a few years only.

<sup>12</sup> Paragraph 9(c)(iii) draft WCO



- 32 According to information obtained from HBRC, the total consented rate of take for consents tied to Fernhill is 3,933L/s and for all hydraulically connected takes is 57,575L/s. Advice received from HBRC scientists is that this current level of extraction is sustainable.
- 33 Heinz Wattie's considers that the allocable volume proposed in the draft order is unworkable.

*Effect on security of supply*

- 34 If the WCO sought by the applicants is granted, it will significantly change how water is allocated in the Heretaunga Plains. Most importantly, it will affect how irrigators and other water users perceive the security of supply of their access to water.
- 35 Security of supply is defined as "any water user's access to the volume of water desired, at the time it is desired". This is not the same thing as allocated volume; conditions may be imposed on a water permit for a certain volume of water that prevent a user from taking some or all of their allocated water if events occur which are outside a water user's control.
- 36 Currently, security of supply is reported as "ban days" – that is, the number of days that HBRC imposes take cessation restrictions on existing consented takes and access to water is denied. This creates a distorted picture of the impact of a loss of supply because it is more damaging to have long periods of ban than intermittent short periods which in the aggregate may total a greater number of ban days. It is generally accepted that a ban event of three or more days which precludes irrigation takes will damage most crops.
- 37 Presently, the only conditions imposed on water users connected to the Ngaruroro River (including those hydraulically connected to the river) are:
- 37.1. 60 consent users in the unconfined aquifer located within 400 metres of the waterway will typically be subject to a ban if the average minimum flow over any 24 hour period falls below 2400L/s measured at the Fernhill Bridge.<sup>13</sup>

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<sup>13</sup> These consents affect 2732.81 hectares of land.

- 37.2. 48 consent holders in the semi-confined area of Twyford are subject to a ban if the average minimum flow over a 24 hour period falls below 300L/s measured at the Raupare Stream.<sup>14</sup>
- 37.3. Six consent holders in the semi-confined area of Twyford are subject to a ban if the average minimum flow over any 24 hour period falls below 549L/s measured in the Raupare Stream.<sup>15</sup>
- 37.4. There are 106 other consents that relate to low flows at other parts of the Heretaunga Plains.<sup>16</sup> The most significant of these are the block of 47 consents on the Tutaekuri River at the Puketapu Bridge, which provide water to 1220.77 hectares of land, and the 43 consents on the Tutaekuri Waimate Stream at Goods Bridge, which irrigate 907.43 hectares of land.
- 37.5. There is one consent for a water storage take that has a minimum flow take cessation limit of 5000L/s at Fernhill Bridge, attaching to 2761 hectares of land.
- 37.6. There are two consents for water storage which have a minimum flow take cessation limit of 15128L/s at Fernhill Bridge, which attach to 11.37 hectares of land.
38. Currently, there are no low flow take cessation conditions imposed on:
- 38.1. Other groundwater takes;
- 38.2. Takes that are a permitted use in the regional plan, which allows any water user to take up to 20m<sup>3</sup> per day;
- 38.3. Water taken for domestic, stock drinking or fire fighting.
39. By including the terminology "hydraulically connected ground water" in the draft WCO application, it appears that all groundwater takes (other than those provided for in clause 12(a) of the draft WCO) will be linked to surface water flows, and all groundwater takes will be subject to river low flow take cessation conditions.

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<sup>14</sup> These consents relate to 561.57 hectares of land.

<sup>15</sup> These consents affect 171.1 hectares of land

<sup>16</sup> These affect 3101 hectares of land.

- 40 Further, it appears that the current RRMP permitted activity use volume (of 20m<sup>3</sup> per day) will be subject to the minimum flow take cessation restrictions proposed in the draft order, because under clause 9(a) no rules may be included in the regional plan that authorize abstraction when the WCO minimum flows are reached (Clause 9(c)(ii)).
- 41 The overall effect of the draft WCO is that existing water users may continue to have water available (though likely at a much lesser volume than their consents presently allow), but subject to significantly more onerous take cessation conditions. Their existing security of supply will be significantly adversely affected.
- 42 The graph **attached** as Figure 1 to this submission illustrates the number of times and length of time river flows were below 2400L/sec and 4200 L/sec respectively at Fernhill in the last 8 years.
- 43 It is apparent that:
- 43.1. The bans of extended duration which occurred between 2012 and 2013 typically occurred late in the season (February) by which time water users have been able to manage operations to allow for this possibility.
  - 43.2. Raising minimum flows will not only increase the duration of ban events but will bring them earlier in the season when water users have less opportunity to manage restrictions.
  - 43.3. Ban events in excess of three days will damage crops on most soils. Lighter soils closer to waterways will be under stress longer, and will take longer to recover when irrigation resumes.
  - 43.4. Presently, these restrictions apply to a relatively small number of consent holders. However, all consent holders will be affected if the proposed increased minimum flows are set and applied to all hydraulically connected groundwater.
  - 43.5. It is therefore certain that the security of supply for all water users will be significantly affected if the proposed water conservation order is made.
- 44 The draft WCO therefore does not have appropriate regard to Objective A4 of the NPSFM 2017 which is to enable communities to provide for their economic well-being, including productive economic opportunities, in sustainably managing freshwater quality, within limits.

*Impact particular to Heinz Wattie's*

- 45 Crop establishment and growing costs range from \$2,400 (peas, sweet corn) to \$9,000 (tomatoes, beetroot), together with land cost. Arable cropping land is currently priced between \$40,000 and \$90,000 per hectare.
- 46 Irrigation is critical for all crops to mitigate risks and to maximize crop potential. In an average season, return on investment will range from 5% (peas, sweetcorn) to 20% (tomatoes, beetroot). Many growers also grow squash and onions for export, with growing costs of \$13,000 per hectare (squash) to \$19,000 per hectare (onions), and returns of 20% to 30% respectively. Every arable crop supplied to Heinz Wattie's is grown on irrigated land.
- 47 Growers' decisions each season on what to plant, where and when are influenced by many factors, including customer requirements, anticipated financial costs and returns, location, soil type, crop rotation and plant dates (to suit processing factory requirements). Currently, very few growers give consideration to irrigation water security of supply.
- 48 If the draft WCO is imposed as applied for, security of supply for irrigation will assume much greater importance, and will rank alongside or above customer demands.
- 49 The crops most likely to be protected will be the highest value options, and the crops most likely to be discounted will be process crops, particularly those with higher establishment costs (tomatoes and beetroot). If growers decide to take a risk, it will more likely be with crops with lower establishment and growing costs, as they have the lowest potential loss if water availability is affected.
- 50 Some growers have diversified their growing operations to include permanent crops like grapes, kiwifruit and pipfruit. They are likely to favour those crops over the arable crops and process arable crops.
- 51 Ultimately, the proposed change in the security of supply of irrigation water will affect the use to which arable land is put, and so its ultimate value. If the water resource cannot support cropping operations, land owners will only be able to reliably undertake dryland farming. The average operating profits per hectare of a typically arable crop rotation is approximately \$2,950 per hectare, per year. This can be contrasted with a dryland

operation (typically lamb fattening), which is likely to yield a profit of \$1,249 per hectare, per year. This could see a drop in the value of land on a productive valuation basis from \$40,000 to \$90,000 per hectare to \$16,900 to \$38,100 per hectare.

**Heinz Wattie's seeks the following recommendations from the Special Tribunal**

51 If the Special Tribunal determines that a WCO should be made in respect of the upper Ngaruroro River:

51.1. The words "and all of its tributaries and contributing waters (including hydraulically connected groundwaters...)" should be deleted from the description of the upper Ngaruroro waters in schedule 1 of the application.

51.2. The prohibition on damming of the upper Ngaruroro waters should only apply to the main stem of the Ngaruroro River.

52 Heinz Wattie's seeks that the WCO application with respect to the lower Ngaruroro and Clive Rivers be rejected.

53 If the Special Tribunal considers that a WCO order should be made in respect of the lower Ngaruroro and Clive Rivers in a modified form, Heinz Wattie's seeks that:

53.1. All references to hydraulically connected groundwater to the lower Ngaruroro River should be deleted.

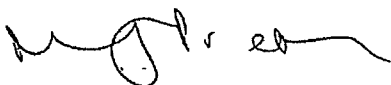
53.2. There should be no change to minimum flow conditions.

53.3. An allocable volume based on sustainable volumes should be set.

**Public Hearing**

54 Heinz Wattie's wishes to present its views at a public hearing.

24 August 2017



Mike Pretty  
Managing Director  
Heinz Wattie's Limited

Figure 1

