

SOUTH WAIRARAPA DISTRICT COUNCIL

7 OCTOBER 2015

AGENDA ITEM NO C4

RESTRICTED RURAL WATER SUPPLY POLICY – 59 CROMARTY DRIVE, MARTINBOROUGH

Purpose of Report

To inform Councillors of a request from Mr and Mrs de Boer of 59 Cromarty Drive, Martinborough for an exemption from the restricted rural water supply policy

Recommendations

Officers recommend that the Council:

1. *Receive the information*
2. *Decline the de Boer request for special consideration as an extraordinary user entitled to an on demand urban type service*
3. *Decline to refund costs sought in respect of water purchased in the past*

1. Executive Summary

There has been a good deal of correspondence from the de Boers to the Council since January 2015 following a complaint received from them about a lack of water during the dry summer months.

They requested that their supply be derestricted to enjoy a full on demand service as urban ratepayers are entitled to. Water meter records indicated that over several years they were taking only a small portion of the annual service level of 350 cubic metres. They claim that they have had to purchase water to maintain reasonable capacity in their storage tanks, yet pay the full targeted water supply rate.

On this basis as a gesture of goodwill officers agreed to remove the restrictor disc from the connection in February on a trial basis pending an investigation into the reasons for an apparent shortfall in supply. They were advised that the restrictor would be replaced.

Since the restrictor was removed they have used in excess of the 350m³ threshold and have been billed for this excess.

The de Boers have since insisted that they be given an exemption under the policy provision as they consider they qualify for an exemption under Section 3.3.5 of the Council's Water Supply Policy as they own and operate a commercial kitchen on the property.

The de Boers are asking for a permanent on demand supply arrangement and compensation for payments made for water purchased over a period and water unjustifiably withheld from them.

2. Background

The facts as we understand are as follows:

1. The de Boers rainwater harvest to storage from the dwelling and accessory buildings on the property.
2. We have no idea as to their actual usage of water on the property but note that they retain a small livestock holding in addition to the operation of their business. We expect it is in excess of standard residential usage.
3. In February 2015, Council staff established that one litre/minute was available at the boundary via the restriction device. That meets the required service level for a rural property of 1500 litres per day (approx. 500m³ /year) approximately.
4. The historical usage has been low which would not be unexpected with a roof rainwater collection in place (subject to normal domestic usage) and average annual rainfall.
5. The original subdivision for this and other properties nearby created in the early 2000's allowed via the consent conditions an annual allocation of 450 m³/per year.
6. Adjoining property Nos 91 and 104 have unrestricted supply. How this has come about is unknown but introduces an element of inconsistency of service levels in this location and is at variance to the policy.
7. The general locality is not much below reservoir level hence at best pressures and flows are a lot less than would be available in the urban zone.

Unknowns include:

1. How much water ACTUALLY arrives at the storage tanks when the supply is restricted. Staff have offered to check this but the offer has not been taken up.

Extract from the policy below:

3.3 RURAL AREAS

3.3.1 Rural areas are those areas defined in the Combined District Plan Maps.

3.3.2 New water supply connections are for domestic use only, and to meet that demand, supply is limited to 1500 litres per twenty-four hours. At officer discretion only, an on demand supply may be offered to urban size property in the rural area. An urban size property is deemed to be 1000 square meters or less.

To supplement town water supply, applicants are encouraged to provide a conventional roof water collection system.

3.3.3 The relevant conditions for new connection in the urban zones shall apply equally to new connections in the rural zone.

3.3.4 Applicants may use a 20mm connection pipe from the mains and provide a Council approved restricted flow control system to regulate the flow to the extent mentioned above.

3.3.5 Despite clauses 3.3.1 to 3.3.3 above, Council may provide a new connection of any specification to a rural property provided that the connection is for a Council deemed significant commercial use and it promotes the social, economic, environmental and/or cultural well-being of the community. Any connection provided under this clause will be at Council's absolute discretion. For the avoidance of doubt, no connection will be provided under this clause for any agricultural use or a residential subdivision.

3. Discussion

There is an inconsistency of supply arrangements for connected properties in Cromarty Drive.

To achieve policy consistency Council can ensure that all properties in this location be fitted within restrictors inclusive of the de Boer property. This means that the current policy is not compromised. To allow consistency with existing adjoining properties in regard to an unrestricted supply would put Council in a difficult position and at variance with its own policy.

The de Boer request revolves around Clause 3.3.5 and on the grounds contained in this provision. It doesn't seem likely that that an exemption would be available under this provision however the Council may have a different view.

3.1 Legal implications

Legal action against Council has been suggested by the de Boers in earlier correspondence.

3.2 Financial considerations

The property owes Council for excess water consumption since the restrictor was removed in February 2015.

3.3 Existing Policy

Current policy allows restricted supply for rural connected properties unless the Council supports an exemption to an on demand supply on specific grounds as per the policy.

4. Appendices

Appendix 1- Letter of application dated 14 September 2015 with attachments

Contact Officer: Bill Sloan, Projects and Programme Manager
Reviewed by: Mark Allingham, Group Manager Infrastructure and Services

Appendix 1 – Letter of application



59 Cromarty Dr
Martinborough 5784

Monday, 14 September 2015

TO WHOM IT MAY CONCERN:

We are following the instructions of her Worship the Mayor in putting our request to the SWDC in writing.

We are unable to find Section 6 of the SWDC Water Supply Document with an appropriate form, so in the absence of such a form, we hereby apply to become extra-ordinary users of water, by virtue of the fact that we run a food business at 59 Cromarty Drive, RD 4 Martinborough. The business, Martinborough Manner, produces jams, chutneys etc from our commercial kitchen, built to SWDC standards, and licenced annually to them.

We understand that this means we will pay for water usage over and above our allowance of the 350 cubic meters paid for in our rates.

This request needs to be viewed in conjunction with our separate request (attached) whereby we request that the restrictor applied to our water supply is to remain permanently removed.

PdeBoer

Penelope de Boer

deBoer

Bill de Boer

59 Cromarty Dr
Martinborough 5784

Monday, 14 September 2015

TO WHOM IT MAY CONCERN:

We formally and hereby request that the restrictor, applied to our water supply at the above property be left out on a permanent basis. This request is to be viewed in conjunction with our request to become extra-ordinary users.

A brief history:

Water meter history at 59 Cromarty Drive Martinborough			
Date	Units (m3)	Days	Balance
12/31/2008	39		0
6/30/2009	65		0
10/31/2009	18		0
2/28/2010	33		0
6/30/2010	31		0
10/31/2010	12		0
2/28/2011	89		0
6/30/2011	25		0
10/31/2011	20		0
2/29/2012	40		0
6/30/2012	14		0
10/15/2012	15	107	0
2/26/2013	81	136	0
6/18/2013	57	110	0
6/30/2014	85	377	0

With a restrictor applied to our water supply, our ability to obtain water is shown. This is not the amount of water that we choose to use in a year. Each year we are forced to buy water from an external contractor. The water supplied by SWDC is not of sufficient pressure, year round to allow us to draw off 350 cubic meters. At some times of the year, it is possible to draw 1 L per minute – this occurs in winter, early Spring when the water table/river levels are high. However, for much of the remainder of the year, with the restrictor applied, we are simply not able to receive enough. When there is sufficient pressure, it has been noted that approximately 5L per minute is capable of being delivered to our tank (Bill Sloan). This indicates there is no fault within our property. The fault lies with the council's provision of water. This is apparently via a private line and a private system. However, this is not of our choosing, and we assumed when the council oversaw the provision of water to our property that they would a) know where the water was coming from and b) have managed a system that was capable of supplying water in quantities being charged for.

Despite our best efforts, with the restrictor applied we are unable to draw in more water than is shown in our water history. Council seems to have the attitude that the problem is ours. It has been suggested that we are merely not using our 350 cubic metres water allowance, and that that this is our choice. We contend that this is NOT our choice. With a restrictor applied, we cannot get this amount of water and are forced to buy water from elsewhere. With the restrictor out, we are more than able to take 1L per minute as shown in the latest usage figures (not in the history above). We

are in the position of paying for a delivery of town water in our rates AND because we do not get this water delivered, paying again to have tanker loads of water delivered. We note from current New Zealand legislation that businesses (including District Councils) must not request nor accept payment for goods or services if they don't intend to supply them, or if they intend to supply goods or services which are materially different from those for which payment is being demanded or accepted. A business must not accept or request payment if it knows, or has reasonable grounds to believe, that the goods or services cannot be supplied within a reasonable time, or the time specified. We believe that some 1500 cubic metres of paid for water has been unjustifiably with-held from us. In our case, Bill Sloan has accepted in his most recent email (21 August 2015) that as SWDC cannot supply the required amount year-round with the restrictor applied a different solution must be pursued. We have noted this to SWDC each year for the last three.

The request is two-fold:

1. The restrictor is left out on a permanent basis
2. Compensation for payments made and goods (in this case water) unjustifiably with-held from us.



Penelope de Boer



Bill de Boer