

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

a joint application by Central Plains Water Trust and Ashburton Community Water Trust to:

Canterbury Regional Council for resource consent CRC021091 to take water from the Rakaia River for use by the Central Plains Water Enhancement Scheme and the Rakaia Terrace Hydro Scheme;

IN THE MATTER OF

applications by the Ashburton Community Water Trust to:

Canterbury Regional Council for resource consents: -
CRC072637, CRC072636, CRC073863, CRC072638,
CRC072639, CRC072640, CRC072641, CRC072642,
CRC073862, CRC073864, CRC072643, CRC072644,
CRC072645, CRC072646, CRC072647, CRC072648,
CRC072649

AND

Ashburton District Council for land use consent: -
LUC07/0030

to divert and use water from the Rakaia River for hydro electricity generation purposes and for the associated construction and operation of the Rakaia Terrace Hydro Scheme.

**THIRD STATEMENT OF PLANNING EVIDENCE OF JANAN DUNNING
ON BEHALF OF ASHBURTON COMMUNITY WATER TRUST
Reconvened Hearing 22 April 2009**

1. SCOPE OF EVIDENCE

1.1 My name is Janan Dunning. I am employed as an Environmental Planner by MWH New Zealand Limited. I have been engaged by the applicant to present Planning evidence in respect of applications for consent for the Rakaia Terrace Hydro Scheme proposal.

1.2 My evidence is supplementary to previous evidence presented at hearings on these applications in March 2008 and September 2008. The applications were considered at that evidence in the statutory context of the relevant national, regional and district provisions. These matters have been dealt with in detail, and I do not intend to revisit them. Rather, I will focus on the matters identified in the Commissioner's minute issued 2 April 2008.

2. TERRESTRIAL ECOLOGY SURVEY

2.1 Mr Forbes initially undertook a preliminary assessment of the terrestrial ecology values of the construction footprint of the Terrace Canal and Barrhill Power station prior to the September 2008 hearing, to identify the adverse effects of the proposal on the ecological values of the Terrace Canal downstream from Highbank Power Station. This assessment provided an initial understanding of the terrestrial ecology along the scheme alignment and was to inform a full ecological survey to follow the issue of consents. The full survey was intended to inform the development of an Ecological Management Plan (EMP).

2.2 At the Commissioner's direction however the full ecological survey was undertaken over the summer of 2008 / 2009, with Wildland Consultants Ltd (Wildland) commissioned by the applicant to comprehensively survey vegetation, invertebrates and lizards between chainage 3500 and 11500 of the proposed construction footprint. Wildland issued a final report on their survey methodology and findings in February 2009. Mr Forbes addresses this in detail in his evidence.

3. LANDSCAPE VALUES

3.1 Mr Compton-Moen acknowledged in his evidence presented September 2008 that the physical setting of the scheme is a "*visual amenity landscape of some value*", and developed a Landscape Planting Plan (LPP) in conjunction with Mr Forbes' EMP to manage the effects of the scheme on the wider landscape values. The intention is to implement the LPP in conjunction with the EMP to avoid or mitigate the visual and ecological effects.

3.2 Mr Compton-Moen concluded that the effects on the existing landscape character, natural character, landscape values and effects on sensitive receivers would be minor. Following the Wildland report, additional planting for ecological purposes was proposed through the EMP. Mr Compton-Moen indicated (**Appendix A**) that this additional planting would mitigate the effects of the scheme on landscape values, and confirmed his original opinion that the effects would be minor. On the basis of Mr Compton-Moen's qualified opinion therefore, it remains my view that the effects of the scheme on the landscape and natural character values of the area will be minor.

4. CONSULTATION

4.1 The applicant undertook consultation as directed with ADC, the Royal Forest and Bird Protection Society (Forest & Bird) and the Department of Conservation (DoC) as directed in paragraphs 77 and 79 of the Commissioner's decision.

4.2 The ADC, Forest & Bird and DoC were invited to comment on the draft survey methodology developed by Wildland Consultants. The Wildland report was issued in February 2009, and was distributed to the parties for their information and comment. DoC and the ADC in particular indicated that the survey methodology was thorough, and they were satisfied that the resulting report and findings were adequate and robust.

4.3 Following the issue of the report Mr Forbes issued a draft EMP to DoC, Forest & Bird and the ADC for comment. These parties responded with written comments, and attended teleconferences to discuss the matters raised. The applicant found these discussions productive, and Mr Forbes amended his EMP to incorporate the matters raised where possible. Consultation with these parties has been productive, and has resulted in a robust EMP benefitting from the input and expertise of a number of qualified contributors and submitters.

5 AMENDED CONSENT CONDITIONS

5.1 As a result of the Wildland survey and report, and the development of the EMP, some of the proposed consent conditions submitted in September 2008 that applied to the implementation of the EMP have been amended. The amended conditions primarily apply to the application to the Ashburton District Council (ADC), and are attached in **Appendix B**. The amendments reflect the fact that the survey and EMP have been completed ahead of the issue of consents rather than following. The conditions include the six main objectives of the EMP, and accommodate the input and comments of affected parties.

- 5.2 The amended conditions require the applicant to achieve the six main objectives of the EMP. Each of the objectives is supported by a set of methods to achieve the objectives, and a means of monitoring the success of those methods. The proposed conditions ensure that the objectives, the methods, and the monitoring are measurable and enforceable.
- 5.3 A new condition has been added to require legal protection to be in place for the areas indicated in the EMP prior to the commencement of construction.
- 5.4 Condition (3) of CRC072642 and CRC072649 has been amended to reflect the proposed reduction of the riverbed sediment disposal area from 20 hectares to 2 hectares as discussed by Mr Woods. The amendment would restrict the consent holder to a 2 hectare area within in the riverbed defined by the map references. The applicant concluded in primary evidence that the effects of the 20 hectare disposal area originally proposed on natural character, terrestrial and aquatic ecology and avifauna would be minor, and correspondingly the 2 hectares now proposed would reduce the area of that effect by 90%.
- 5.5 All other consent conditions remain as originally agreed with stakeholders and as presented to the Commissioners in September 2008.

6. REVIEW OF POLICY CONTEXT

- 6.1 As the status of the indigenous vegetation and habitat of the Terrace Riser is now recognised, it is important to consider the proposal in a broader policy context. The relevant Planning framework was detailed in submissions in the September 2008 hearing, finding that the matters relating to terrestrial ecology and landscape fall primarily within the consideration of the ADC.
- 6.2 My previous evidence examined the relevant objectives and policies, concluding that the proposal was not inconsistent with them. The Commissioners drew similar conclusions in paragraphs 55 and 56 of the interim decision. However, in light of the findings of the Wildland survey, the recognised status of the indigenous vegetation of the terrace riser, and the amendments to the applicant's EMP I reconsider the provisions that apply to terrestrial ecology and landscape matters below.

- 6.3 In my opinion, the key provisions of the Canterbury Regional Policy Statement (RPS) relevant to the consideration of ecological and landscape effects are Objective 3 and Policy 4 of Chapter 8 – *Landscape, Ecology and Heritage*. These are attached for reference in **Appendix C**.
- 6.4 These provisions seek to protect or enhance indigenous biodiversity, habitat and threatened and unusual indigenous species, all of which are confirmed as present within the proposed construction footprint by the findings of the Wildland report.
- 6.5 While some loss of indigenous vegetation and habitat is unavoidable if the scheme proceeds, the intent of these provisions can be achieved through the mitigation measures and additional planting proposed in the EMP. Current land management of grazing, intermittent clearance and plantation planting, and the presence and proliferation of invasive weed species on the terrace riser do not promote the protection or enhancement of indigenous species on the terrace face. The measures proposed in the EMP, particularly the propagation and re-establishment of species within the alignment to “safe” areas outside the scheme footprint, and the fencing, stock exclusion and legal protection proposed would enhance the long term viability of the indigenous species and communities present.
- 6.6 The intent of these provisions to is identify and safeguard the survival of these species and communities. In my view, this intent would be better achieved through the approach proposed in the EMP than by continuing with current management. Considering the relevant provisions following the completion of the Wildland survey, I remain of the view that the proposal is consistent with the above RPS provisions.

ASHBURTON DISTRICT PLAN

- 6.7 The Ashburton District Plan (District Plan) was prepared in accordance with the RMA and as such is consistent with the relevant Regional provisions, including the RPS. As the significance of the vegetation on the terrace riser has now been confirmed it has status under the Plan. In my assessment there is no change to the activity status of the proposal as a result of the findings of the Wildland report, and remains a discretionary activity under the District Plan subject to Utilities Rule 6.7.1.4.e. I therefore consider the proposal in the context of District Plan provisions not previously considered.

- 6.8 I consider the objectives and policies in the table below in the context of the findings of the Wildland report. These provisions are attached to this evidence for reference in **Appendix C**.

District Plan Section	Objective	Policy
Utilities – Section 3.9	3.9.3.1 – Objective 1	3.9.3.2(1) & (2)
	3.9.3.7 – Objective 3	3.9.3.8(3), (5) & (7)
Natural Environment – Section 3.1	3.1.3.1 – Objectives 1	3.1.3.2(3), (4), (13), (14), (15)
Landscape Values – Section 3.1	3.1.3.5 – Objectives 5 & 6	

Utilities Provisions

- 6.9 The intent of Objective 1 (Part 3.9.3.1) is to ensure that utilities have minimal effect on amenity and the physical environment. This objective is supported by Policy 3.9.3.2(1) and Policy 3.9.3.2(2) which seek the protection of outstanding and significant landscapes, amongst other things, from visually and environmentally incompatible utilities. A robust assessment was carried out by Mr Compton-Moen, presented in September 2008. The findings of the Wildland report and the consequential EMP has not changed Mr Compton-Moen’s opinion that the long-term visual effects of the proposal would be minor. I consider that the environmental compatibility of the scheme is best considered in the context of the effect on the natural environment as assessed below.

Natural Environment

- 6.10 Nature Conservation Objective 1 in the Natural Environment chapter seeks the protection of indigenous biodiversity and ecosystems within Ashburton District. Policy 3.1.3.2(3) is relevant, providing a framework for the assessment of areas with significant nature conservation values. The criteria of rarity, distinctiveness / special ecological characteristics and representativeness in this policy apply, and were found to be of high value in the Wildland report.
- 6.11 Policy 3.1.3.2(4) directs that “*significant adverse effects on the ecological integrity and functioning, habitat values and natural character of areas of significant nature conservation value, recognised in terms of Policy 3*” be avoided, and that other adverse effects be remedied or mitigated. Mr Woods considered the feasibility of moving the canal alignment to avoid the most important vegetation but this was impracticable for the reasons he discusses. In this respect the proposal is not consistent with this policy. However, the measures proposed in the EMP adequately achieve the secondary aim of remedying and mitigating the effects through propagating, transplanting and the extensive planting of indigenous vegetation and the establishment of lizard habitat.

- 6.12 Policy 3.1.3.2(13) refers to “rare species” and directs that activities “*avoid, remedy or mitigate adverse effects on, and where possible enhance the survival rate of rare, vulnerable or endangered species*”. In my view the thrust of the EMP promotes the remediation and mitigation of the effects of works on the rare and endangered species identified. Additionally, through the proposed legal protection, propagation and mitigation planting, the survival rate of the rare and endangered species is likely to be enhanced. In my view the proposal is consistent with this policy.
- 6.13 Policy 3.1.3.2(14) is similar to Policy 13 in that it refers to maintaining or enhancing the “*survival and well-being of viable communities of indigenous plants and/or animals*”. Policy 15 encourages the retention and protection of remaining indigenous vegetation. While the implementation of the EMP would enhance the survival and well-being of the indigenous plant and animal communities in the area long term, the retention of vegetation, and the legal and physical (fencing) protection of large areas of existing kowhai forest is also embedded in the objectives of the EMP. Accordingly, it is my view that the proposal is consistent with these policies.
- 6.14 Having assessed the relevant provisions of the District Plan, I still hold the opinion that the proposal is generally consistent with the objectives and policies previously considered, and those considered above in light of the status of the terrace riser vegetation and habitat.

7. THE RESOURCE MANAGEMENT ACT 1991

Part II

- 7.1 In my primary evidence of September 2008 I discussed the proposal in the context of Part II of the RMA in some detail. Consequently I now focus on the findings of the Wildland report.
- 7.2 Section 5 contains the single purpose of the RMA to which sections 6 – 8 are subordinate. Accordingly, I consider ss.6 – 7 first and then return to s.5 for an overall conclusion. Section 8 was addressed in previous evidence.

Section 6

- 7.3 Section 6 directs that matters of national importance be recognised and provided for in achieving the purpose of the Act. The direction of s.6 to preserve, maintain and protect these matters is to be achieved within the context of the appropriate use and development of physical resources. The preservation, maintenance and protection of these matters are subordinate to the RMA's overall purpose of sustainable management.

- 7.4 Section 6(c) provides for the protection of areas of significant indigenous vegetation and the habitats of indigenous fauna. Applying the assessment criteria in the District Plan, the site is “significant” in respect of the indigenous vegetation and habitat. The “preservation, maintenance and protection” directed in s.6 triggers the consideration of whether the loss of vegetation is justified in achieving the purpose of the RMA.
- 7.5 The Wildland report acknowledges that the loss of indigenous vegetation and habitat can be adequately remedied and mitigated by providing substantial ecological mitigation planting, ecological management and legal protection for conservation purposes. In the absence of this mitigation and planting, the effect of the loss of indigenous vegetation would be significant. However, I understand that the mitigation and planting proposed would be adequate such that the long term effect would be minor. In this respect the intent of s.6(c) would be achieved as the significance and value of the indigenous vegetation and habitat is recognised, its long-term viability and value protected.
- 7.6 I understand that by applying the ecological mitigation measures and the planting and management regime proposed in the EMP, and the Landscape Planting Plan previously submitted, a net environmental benefit would be achieved long-term. The abundance of indigenous vegetation would be enhanced, as would the survival of rare and threatened indigenous species on the terrace riser, increasing indigenous biodiversity in the area and providing improved and protected habitat. In my opinion this would adequately recognise and provide for the values identified in s.6(c).

Section 7

- 7.7 Section 7 identifies matters to which particular regard shall be had in exercising functions and powers under the Act.
- 7.8 Section 7(d) addresses the intrinsic values of ecosystems, and s.7(f) the maintenance and enhancement of the quality of the environment. These matters are inter-related. By safeguarding the long term quality of the environment through the implementation of the EMP, the intrinsic values of the ecosystem would by default be safeguarded.
- 7.9 Section 7(g) considers the finite characteristics of natural and physical resources, in this case the indigenous vegetation and habitat that would be affected by the proposal. While there would be an undeniable loss to the existing vegetation in building the scheme, looking once again to the long-

term net benefit and in particular the proposed legal protection of areas of ecological mitigation planting, the end result would enhance the viability and integrity of this resource.

- 7.10 Section 7(j) considers the benefits derived from the use and development of renewable resources. There are clear benefits and national impetus to develop sources of renewable energy, which invariably come with some degree of environmental cost. In balancing these benefits against the loss of indigenous vegetation, albeit mitigated by the ecological mitigation measures proposed, it is my view that as the long term establishment and maintenance of the ecological planting is achieved, the overall effect would be minor. In my view the proposal gives adequate regard to s.7 matters.

Section 5

- 7.11 Weight and proportion are key in determining whether the purpose of the Act is achieved in this instance. The cost to the environment in respect of the indigenous vegetation and habitat should be considered in the context of a long term view, bearing in mind that the RMA anticipates some effects from using and developing natural resources. The result of the Wildland report highlighted the importance of the indigenous vegetation and habitat that would be disturbed or destroyed, and informed the content of the EMP to effectively counter those losses. It provided the opportunity to establish and maintain in perpetuity areas of quality indigenous habitat protected from grazing or other disturbance, and which over time would be expected to provide a higher quality environment than currently exists. The Wildland report notes that *“if undertaken with adequate preparation and maintenance, restored areas have the potential to be of greater ecological value than is currently present”*.
- 7.12 In light of the benefits to be derived from the implementation of the EMP, I am of the opinion that the proposal as a whole, particularly with the implementation of the EMP would achieve the purpose of the RMA as defined in s.5.

8. CONCLUSION

- 8.1 The Wildland report noted that avoidance, remediation and mitigation strategies previously proposed by the applicant were adequate in many ways, but in light of the findings of the full survey needed to go further. The recommendations in the Wildland report have largely been adopted and inserted into the EMP presented by Mr Forbes.

8.2 I remain satisfied that granting the consents applied for would be consistent with the provisions of Part II of the RMA and would achieve the purpose of the RMA subject to the recommended conditions imposed under s.108.

Dated: 22 April 2009

Janan Dunning
Environmental Planner
MWH New Zealand Limited

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