

IN THE MATTER OF the Resource Management Act 1991
AND

IN THE MATTER OF applications by Central Plains Water
Trust to:

Canterbury Regional Council for
resource consents to take and use
water from the Waimakariri and
Rakaia Rivers and for all associated
consents required for the construction
and operation of the Central Plains
Water Enhancement Scheme

Selwyn District Council for resource
consents to construct and operate the
Central Plains Water Enhancement
Scheme

AND

IN THE MATTER OF a notice of requirement by Central
Plains Water Limited to:

Selwyn District Council for the
designation of land for works
associated with the construction and
operation of the Central Plains Water
Enhancement Scheme

**MEMORANDUM OF COUNSEL REGARDING OBJECTIVES OF CENTRAL PLAINS
WATER LIMITED AND PROPOSALS FOR COMPENSATION/MITIGATION FOR
AFFECTED COMMUNITIES AND LANDOWNERS**

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Objectives of the Requiring Authority

1. At paragraph 18 of the Commissioners' Minute (No 4) dated 6 June 2008, the Commissioners have asked the applicants to direct them to where the relevant objectives of the requiring authority are to be found in order to assess the necessity of the works in a designation as required under section 171 of the Resource Management Act.
2. Put simply, the objectives of the company are to investigate, construct and operate the Central Plains Water Enhancement Scheme ("the Scheme").
3. The expression of this objective can be found in the following two documents which are already before the Commissioners:
 - (a) The Memorandum of Agreement dated 5 November 2004 between Central Plains Water Trust and Central Plains Water Limited which is annexed to the evidence of Mr Denis O'Rourke. Specifically at clause 7.1. That document states that one of the roles of Central Plains Water Limited is to "*construct, commission and operate the Scheme (clause 7.1.f)*".
 - (b) In the Notice of Requirement, the objectives of the requiring authority are set out at paragraph 5(a), of Form 18. These are "*improving the security of water supply and hence the prosperity of Central Canterbury through a water management scheme that enhances ecological and recreational values while providing opportunity for agriculture and horticultural diversity.*"

The key components of the scheme are:

 - (i) *The construction, operation and maintenance of an irrigation scheme using water diverted from the Rakaia and Waimakariri Rivers and stored in a reservoir in the Wainiwaniwa Valley.*
 - (ii) *The distribution of water network to irrigate up to 60,000 ha of land on the Canterbury Plains between the Rakaia and Waimakariri Rivers and west of State Highway 1.*
 - (iii) *The discharge of water from the bottom of the scheme area backed to surface waterways and groundwater.*
4. In addition, an explanation of the objectives of the company can be found in the following documents, which are **attached**;

- (a) Central Plains Water Limited prospectus at section 8. The prospectus provides that *"the company has been formed by the Water Trust to investigate, construct and operate the Scheme for farmers, who farm within the Scheme area."*
- (b) The application to the Minister for approval as a requiring authority. This states, at page 4, paragraph 4.1 that *"Central Plains Water's principle objective is to develop and operate the Scheme."*

Compensation / Mitigation for Affected Communities and Landowners

- 5. At paragraph 17 of the Commissioners' Minute (No 4) dated 6 June 2008, the Commissioners have asked the applicants to outline what proposals (if any) there are to:
 - (a) Compensate or otherwise mitigate the Coalgate Community, for social and amenity impacts of the Scheme;
 - (b) Compensate those whose businesses who may be adversely affected by construction or other impact;
 - (c) Compensate affected landowners beyond the Public Works Act Compensation (for dislocation etc).
- 6. The applicants have considered the various options to recognise that landowners whose land will be required for the Scheme, and the community of Coalgate, will be the most adversely affected by the Scheme, and should also share in some of the benefits from it.
- 7. They therefore propose that, in addition to the Environmental Enhancement Fund, there should be established a Community Fund for the particular benefit of those most directly affected.
- 8. The proposal is outlined in the following proposed condition:
 - (a) *The consent holder shall provide a sum of \$300,000, payable in 3 equal instalments at 12 month intervals over 3 years, (being the anticipated maximum period of construction of the headrace canal and dam) to fund projects and initiatives which benefit landowners and communities affected by the headrace and dam construction works. The first instalment must be paid prior to exercise of any of these consents.*

- (b) *After the initial 3 year period, the consent holder shall provide an annual sum of \$20,000 per year, inflation adjusted, for the term of these resource consents. Again this is to be used to fund projects and initiatives which benefit landowners and the communities affected by the headrace canal and dam.*
- (c) *The distribution of these funds will be administered by the consent holder, while it is registered as a charitable trust. The consent holder shall consult with the Community Liaison Group before determining which projects or initiatives are most appropriately funded with these funds.*
- (d) *Should the consent holder cease to be a registered charitable trust, these funds are to be transferred to a charitable trust established by the consent holder for the purpose of aiding and benefitting the landowners and communities directly affected by the scheme works. The charitable trust deed must make provision for a trustee or trustees to be appointed to the trust who reside in Coalgate, Glentunnel or adjacent to any part of the headrace canal or the dam.*
- (e) *The funds are to be used for projects which meet the social, economic and cultural needs of the affected landowners and communities. Such projects can include, but not be limited to:*
 - (i) *The provision of recreational facilities in and near Coalgate and Glentunnel;*
 - (ii) *The provision of grants to schools or community groups based near the headrace canal and dam.*
 - (iii) *The provision of community facilities in and near Coalgate and Glentunnel*

9. The applicants do not, at this stage have proposals to compensate Coalgate businesses. They believe that many businesses may actually benefit from the Scheme, particularly during the period of construction, and at this stage, the applicants are not aware of any effects that businesses will suffer that are different from those which the community as a whole will experience. They therefore consider that the Community Fund is the most appropriate vehicle to deliver benefits to both individuals and businesses in the affected community.

10. In terms of proposals to compensate affected landowners beyond the Public Works Act Compensation (for dislocation etc), the company, as a requiring authority, has always considered that those whose land is required for the Scheme are the most adversely affected of any of the parties involved.
11. In the circumstances, the company will undertake to purchase land which is affected by the designation at market value, to be determined as if the designation were not in place, plus a margin of 25% of that market value.
12. In making this commitment, the requiring authority wishes to make it clear that this margin will only be available in the event that:
 - (a) The designation and consents required for the Scheme are beyond appeal;
 - (b) The company has resolved to proceed with the construction of the Scheme; and
 - (c) The purchase is concluded outside the processes outlined in sections 185 and 186 of the Resource Management Act 1991.
13. The company is also prepared to commit to purchase the balance land of any landowner who has land affected by the designation, should the landowner so require, and whether or not the landowner could otherwise require the land to be compulsory purchased under the provisions of the Public Works Act. The purchase of that land will also be at market value as if the designation were not in place on the adjacent land plus a margin of 25% and on the same terms and conditions as set out in paragraph 12 above.

Dated this 4th day of July 2008



R M Dunningham
Solicitor for Central Plains Water Trust
and Central Plains Water Limited