

**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 consents 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 Central Plains Water Trust to:

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

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

**IN THE MATTER OF**

applications by Ashburton Community Water Trust to:

Canterbury Regional Council for resource consents to use and divert water from the Rakaia river for the purposes of hydro electricity generation and associated consents required for the construction and operation of the Rakaia Terrace Hydro Scheme.

**Minute 6 of Commissioners, decision as to continuance of the hearing  
and request for further information**

**18 May 2009**

□ **DECISION AND SUMMARY**

1.1 □or the reasons we summarise here and have set out in full in a separate Minute (also issued today) we have concluded that we should continue to hear further evidence from Central Plains Water Trust and Central Plains Water Limited (CPW) and responses to that from submitters and officers. We have decided to request limited further information from CPW and to resume the hearing on 5 October 2009 to hear from CPW and submitters. This will delay our decision by 4 to 6 months beyond when it could otherwise have been expected.

1.2 We have made it clear that a decision not to continue would mean that we would eventually be rejecting the scheme in its entirety. A decision to continue means that the Central Plains will have an opportunity to persuade us that we should approve a scaled back scheme. Accordingly this procedural decision is of critical importance.

1.3 In summary we have concluded that:

- This will not result in any "*undue delay*" in the context of the time and effort spent to date.
- This continuance and the procedures we have put in place is "*appropriate and fair in the circumstances*".
- Although if approved, a scheme without large scale storage would be an amendment to what was applied for, that would not be an amendment which would be likely to be beyond the scope of the original applications.
- If after hearing further evidence, we decide to grant consents and recommend in favour of a scheme without the Waianiwaniwa dam and reservoir and the upper intake and tunnel, the overall scale of the proposal would be reduced and the overall adverse effects would almost inevitably be less than what was originally proposed. Such a scheme is likely to be more sustainable than what was proposed.
- Such a scheme would not result in a significant change to the character of the proposal. The essential nature of the proposal would remain the same. That is; to enhance the productive value of water by utilising it for irrigation. The degree of reliability (enhancement) would however be less.
- We doubt that there would be persons who would be affected to a greater extent by the amended proposal and who have not submitted.
- There is no legal barrier to us approving a scaled down proposal provided that we have heard evidence on that modified proposal.
- It was open to CPW to volunteer to remove components of its scheme either during the hearing or after our decision.
- It is fair that Central Plains be provided with the opportunity to present that evidence and try and persuade us to approve the balance of the scheme.
- This approach is not unfair to submitters and is in our view a more efficient approach than simply proceeding to issue a negative decision on the whole scheme.

- Central Plains' offer to undertake not to use the compulsory acquisition powers under the Act does not affect our conclusions regarding the reservoir, dam and upper intake.
- We encourage Central Plains to advise affected persons and the public by the end of June (once we have set out our reasoning in relation to those components) as to whether it will accept our ultimate recommendation/decision in relation to reservoir and associated components.
- We emphasise that we have made no decision on the sustainability of any of the other components of the scheme. Accordingly reconvening of the hearing should not be taken as an indication of the likely outcome.

□ **DIRECTIONS**

- 1.4 □ or the reasons outlined in this Minute below the hearing will resume at 10 am on **Monday 5 October** to enable us to receive further information from Central Plains, and responses from submitters and the officers to that further information.
- 1.5 The further information which we have requested of CPW shall be provided to Environment Canterbury by **4pm on 1 September** and will be made available on the ECan website by 3 September. Copies of that information will also be available on CD rom at the ECan and Selwyn DC offices and a limited number of hard copies will also be made available at the various offices of the Councils.
- 1.6 The officers of both Councils may respond to the further information by **18 September** and those responses will also be made available as above. (CPW is encouraged to provide any modelling and draft evidence to officers as soon as it is available).
- 1.7 Submitters shall provide any technical evidence in response by **4pm Friday 25 September**.
- 1.8 CPW may provide further evidence strictly in response to submitters and officers by **4pm on 2 October**.

□ **REQUEST FOR FURTHER INFORMATION**

- 1.9 Pursuant to section 41C of the Resource Management Act, we request Central Plains Water Trust to provide further information by way of evidence relating to the effects and implications of the removal of the Waianiwaniwa dam and reservoir, the upper intake and tunnel from the scheme, on any aspect of the scheme or environment, but including in particular the following:
- *Any changes to the location or extent of the areas proposed for irrigation.*
  - *Any changes to the maximum or average rates or volumes of water applied to land.*
  - *CPW's reasonable need for the maximum and average rates, of take from the Waimakariri and Rakaia rivers at particular flows and times. (Excluding needs arising out of potential future applications.)*

- *Any resulting changes to the proposed take regimes for each river including any additional changes the applicant may propose to minimise adverse effects on the environment and any proposed changes to reflect possible sharing arrangements with other consent holders.*
- *Any resulting changes to ground water mounding and lowland drainage effects as a result of less irrigation from the rivers and the same or more from existing groundwater sources.*
- *Any resulting changes to lowland stream flows as a result of less irrigation from the rivers and more or the same from existing groundwater sources.*
- *Any resulting changes to predictions of contaminant levels to groundwater, lowland streams and Te Waihora as a result of less irrigation from the rivers and more or the same from existing groundwater sources.*
- *The impacts of the reduced scheme on reliability and efficiency of water use.*
- *Any other matter which relates to the removal of the reservoir from the scheme and/or which is in response to any other developments which have occurred since September 2008.*
- *Any changes to the headrace route, or to intake structures, or to their design.*

**1.10** As requested by CPW, we will summarise our conclusions and reasoning in relation to the dam, reservoir, tunnel and upper Waimakariri intake, by way of a Minute by the end of May. If CPW indicates that it accepts those conclusions then we will not canvas those matters in our final decision. If CPW indicates that reserves its position in relation to those components, then we will provide more detailed reasoning in our final decision.

**1.11** So far as the Waimakariri take regime is concerned, we have indicated to the parties that we will outline our preliminary thoughts on this in a Minute which we hope to issue by mid June. We may at that stage signal other matters in respect of which we would like further information.

Philip Milne Chair  
on behalf of the panel.



19 May 2009