

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 8 of Commissioners setting out directions relating to and independent review of nutrient and other contamination issues

22 June 2009

Introduction

1. The hearing is resuming on 5 October 2009 to consider the implications of a scaled back scheme. One of the issues which we will need to give further consideration to is the matter of nitrate contamination. In particular the potential effects of the amended scheme on:
 - Potential contaminant levels in ground water and in particular in drinking supply bores
 - Any consequent health risks of such contamination
 - Any other potential adverse effects on groundwater
 - Contaminant levels in surface water
 - Potential ecological effects on lowland streams
 - Potential effects on Te Waihora
2. We already have extensive evidence on these matters, however risks of adverse effects may be different with a scaled back scheme.
3. These issues are a matter of considerable public interest. For example:
 - The District Health Board has claimed that the proposal will pose a significant public health risk. (but did not provide any quantitative risk assessment to support that claim)
 - Ngai Tahu and others raise concerns regarding potential effects on Te Waihora and efforts which may be made to improve the ecology of the lake.
 - A number of submitters have raised concerns regarding potential adverse effects on the ecology of lowland streams.
4. Leaving aside the issues associated with the dam and reservoir which we have already addressed, the contamination issues and the question of effects on

instream values in the Waimakariri are the two most significant remaining issues. While there are a raft of other issues, these two matters are of critical importance and public interest.

5. Both issues are quite complex. We are about to release a minute setting out our preliminary views on the take issue, however we have not yet reached any conclusions on the water quality issues. The evidence is complex and conflicting.
6. We have concluded that we require some assistance on this matter. None of the panel are ecologists or health risk experts. We have some preliminary views but given the public interest in these matters we have concluded that it would be appropriate to seek some independent assistance on these issues. That will both assist us with our decision making and provide the public with greater confidence that these issues have been thoroughly considered.
7. Section 41C enables us to commission a person or persons employed for that purpose, to prepare a report on any matter on which the authority requires further information if the activity that is the subject of the application is likely to a significant adverse environmental effect, provided that the applicant does not refuse to agree to that.
8. We have concluded that the evidence suggests that the proposal does have the potential to significantly increase at least nitrate levels in groundwater and surface water. Whether or not that is a significant adverse effect can not be determined at this stage. The applicant is not opposed to the commissioning of a report.
9. We have sought advice from Regional Council officers and they have consulted with the applicant as to suitable people to provide the report. Those people are Dr Vince Bidwell of Lincoln Ventures Limited and Mr Ned Norton of NIWA who have agreed to be engaged for this purpose. We have also consulted with the officers and they have also consulted with the applicant regarding an appropriate brief which is set out below.
10. Accordingly pursuant to section 41C of the Act we direct that Messrs Bidwell and Norton be engaged to provide a report covering the following:
11. A review of information regarding, the environmental effects of irrigating land as a result of whatever amended scheme is advanced by CPW.

The consultants should:

12. Review of all existing evidence which is before the panel relating to:
 - Potential contaminant levels in ground water and in particular in drinking supply bores
 - Any consequent health risks arising from such contamination
 - Any other potential adverse effects on groundwater
 - Contaminant levels in surface water
 - Potential ecological effects on lowland streams
 - Potential effects on Te Waihora
13. Discuss with the applicant the details of its amended proposal and in particular any likely changes to the location or rates and volumes of irrigation or the time when that will occur and any ground water recharge proposals which it may have.
14. Review the further evidence provided by the applicant for the October hearing and any evidence in response from other parties relating to these matters.
15. Take into account the applicants proposals for mitigation including the on farm protocol.
16. Liaise with the relevant regional council officers, and the applicants and any submitter experts in relation to the above issues.
17. Take into account any other published or unpublished reports on the relevant issues, including any evidence provided in other hearings (eg the hearings into the PNRRP).
18. Liaise with the commissioners regarding the panels preliminary views of the evidence.

19. Synthesise this information and so far as is possible draw their own independent conclusions regarding:

- The likely magnitude, temporal variation and spatial variation of any increase in nitrate and phosphate concentrations in groundwater resulting from the revised scheme.
- Any potential health risk implications of increased nitrates or pathogens in bore water
- Any potential effects on rivers, drains and streams down-gradient of the command area
- Any potential effects on Lake Ellesmere (Te Waihora)
- Any perceived deficiencies in the information before us pertaining to these issues;
- Any areas of uncertainty in terms of their conclusions
- Any suggested changes to conditions or the farm protocol to address water quality issues.

20. These conclusions should take into account:

- proposed mitigation measures (including possible conditions);
- the increased dilution arising from the scheme
- recent decisions in relation to other irrigation schemes in Canterbury

21. We emphasise that this is a desktop exercise and we do not envisage any additional modelling work being carried out. However the consultants may informally suggest further work that the applicant may wish to carry out.

22. The methodology and scope of work should as far as possible be agreed with the applicant. The final scope of work should be agreed with the Regional Council before work commences. If the reviewers, staff or applicant have any queries or suggestions regarding the scope of work or the form of the report they should be addressed to us directly

23. We note that this report will not be determinative of our conclusions on the matters concerned. However we are hopeful that report will provide us with considerable

assistance and that ideally parts of it could be utilised in our final decision to avoid us having to re traverse matters. Accordingly it would be appreciated if the writing style in the report was in a form where the relevant parts of the report could be reproduced in our decision along with such comments from us as are appropriate.

24. Section 41c(5) RMA requires that a copy of this initial report be made available to the applicant and any party who made a submission. ECan staff will make that initial report available on the website by 21 September 2009. A copy will be provided to the Commissioners at that time. The applicant, submitters and the Reporting Officers have the right to provide comment on the initial report at the resumed hearing on 5 October 2009. The initial report should then be updated as required following the resumed hearing. The authors of the report will need to present the report at the resumed hearing. If necessary we will seek clarification of particular matters. They should also be available to assist us as necessary with our deliberations on the relevant matters.
25. Although we encourage collaboration with the applicant's experts relevant submitter experts and council officers, it is essential the reviewers approach this task in an independent manner.



Philip Milne
Chair

Dated: 22 June 2009