

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
CPWES

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

**BRIEF OF EVIDENCE OF DANIEL JAMES MURRAY
RESPONSE TO SECTION 42A REPORT**

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QUALIFICATIONS AND EXPERIENCE

1. My full name is Daniel James Murray.
2. My qualifications and experience have been presented to the Commissioners in my primary brief of evidence and has not been repeated here.
3. I have read the code of conduct for expert witnesses set out in Environment Court practice note, and confirm that I have complied with the code in the preparation of my evidence.

SCOPE OF EVIDENCE

4. My evidence is focussed on responding to issues arising out of the Section 42A Officer's Report compiled by Mr Leo Fietje on behalf of Environment Canterbury.
5. A large majority of the Officer's Report is concerned with the effects of the Central Plains Water Enhancement Scheme ('CPWES'). To that extent the other expert witnesses presenting on behalf of the Applicant have responded to the majority of the issues raised in the report. Nothing has arisen in the Officer's report or in the expert witnesses responses which changes the core conclusions of my primary evidence.
6. The only matter I wish to respond to is regarding the status of activities as identified in Appendix D of Mr Fietje's evidence.

ACTIVITY STATUS

7. The table presented in Appendix D of the Officer's report is largely based on a table prepared by URS New Zealand in 2005 (the latter hereinafter referred to as the 'original assessment'). Some of the information in this table is now outdated and incorrect. The assessment of activity status supplied in Attachment 1 to my primary evidence should be referred to rather than the original assessment.
8. In comparing the activity status of applications in Attachment 1 of my primary assessment to the 'ECan Comment' column in Appendix D of the Officer's report, I am in almost full agreement with the Officer's assessment. Where I agree I provide no further comment, but in areas where I do not agree, or where further comment is required, I make the following responses:

General

- a) CRC061843 – This application is concerned with activities in the riparian margin of the Waimakariri River. The Officer's report suggests that the Waimakariri Regional River Plan (WRRP) rules apply to this application. However, in my view, the rules of the WRRP only manage activities in the beds of rivers and not in the riparian margins. On this basis I consider the rules of the Proposed Natural Resources Regional Plan (PNRRP) apply to Waimakariri River riparian activities, as noted in Attachment 1 to my primary evidence. The activity status is discretionary.
- b) CRC061925 and CRC061927 – These applications relate to dewatering activities. These were considered to be non-complying activities in the original assessment, and this was agreed with in the Officer's report. However, as noted in paragraphs 86-87 of my primary evidence, I consider dewatering activities to be at worst discretionary activities under Rule WQN18 of the PNRRP (taking of water from groundwater for site de-watering that is not permitted). Where any dewatering activity occurs at the proposed Kowai River siphon, which falls in the Waimakariri River catchment and is subject to the WRRP, this would most appropriately fall within Rule 5.1 (restricted discretionary activity), even though no water would be abstracted 'out-of-river'.
- c) CRC061930 – This application relates to the taking of water from the Waianiwiwa River for construction purposes. I confirm that should this consent be exercised, no water will be taken from the Rakaia-Selwyn Groundwater Zone, and therefore this activity would not be prohibited. I consider the activity to be a discretionary activity as noted in paragraph 85 of my primary evidence, and not non-complying as noted in the original assessment and agreed with by the Officer.
- d) CRC061948 – This application deals with hazardous substance storage and use when constructing the reservoir and dam. Should Condition 1 of Rule WQL44 (which relates to separation distances from waterbodies) not be met, the activity status becomes non-complying under Rule WQL62. This was the stance taken in the original assessment and agreed with in the Officer's report. However, I can confirm that the separation distances can be met and therefore

discretionary activity status under Rule WQL59 applies, as noted in Attachment 1 to my primary evidence.

- e) CRC061867 – This application, relating to bed disturbance activities in the Waimakariri River, was rationalised/incorporated into CRC061868 following lodgement. The former application is included in Appendix D of the Officer's report, whereas the latter application is not. The activity status does not differ between the two.
- f) CRC061933 and CRC061951 – These applications relate to hazardous substance storage for generators at pump stations and are included in Appendix D of the Officer's report. However, as noted in paragraph 24 of my primary evidence, these are no longer being sought by the Applicant.
- g) CRC061932 – This application relates to discharges from the proposed tunnel during the construction phase and is included in Appendix D of the Officer's report. However, when the tunnel applications were notified in May 2007 this consent was superseded by CRC073313. The activity status remains the same.
- h) CRC063699 – This relates to the taking of water from the Waimakariri River and is included in Appendix D of the Officer's report. However, this application has since been superseded by CRC061972.

Discharges

- i) CRC061873, CRC061980, CRC061870, CRC061974, CRC061975, CRC061976, CRC073313, CRC061949, CRC061871, CRC061977, CRC061978, CRC061928, CRC061950, CRC061922, CRC061983, CRC061945, CRC061949, CRC071917, and CRC073916 - These applications relate to discharges of water and contaminants to land and water, arising from construction, operation and maintenance activities across the Scheme area (excluding the Waimakariri River catchment). In paragraphs 97-103, 80-81 and 266 of my evidence, I discuss the issue of how these applications have been categorised as non-complying activities under the PNRRP due to both a conservative approach taken by the applicant and the effect of grouping activities and locations. In particular, the grouping of construction and operations activities within applications can lead to the entire application taking on a more stringent category due solely to the

construction activity, when in reality the construction discharge only makes up a very small portion of the consent duration sought. As discussed in the evidence and S42A response of Mr Paul Kennedy, another central issue leading to non-complying status is the difficulty, in a practical sense, of complying with some of the standards for discretionary activities in the PNRRP. In that regard, Mr Kennedy also notes that the standards in the PNRRP are very likely to change through the plan development process.

Appendix D of the Officer's report records that these applications should be treated as non-complying unless evidence can be shown that the water quality standards can be met. Mr Kennedy has presented evidence that demonstrates that the majority of individual activities within these applications will meet discretionary activity standards. However, given the issues noted above the applicant is placed in a position where non-complying status is agreed with. My view is that little weight can be placed on this issue given that the non-complying status derives solely from the PNRRP, which has not advanced sufficiently through the plan development process. There is a reasonable likelihood that both the water quality standards and status for such activities in the PNRRP may change once decisions are released and any references resolved.

- j) CRC061875, CRC061920, and CRC06175 - These applications relate to discharges of water and contaminants to the Waimakariri River, arising mostly from construction activities. Attachment 1 of my primary evidence classifies these as discretionary activities on the basis that they will meet water quality standards in the Waimakariri River Regional Plan (WRRP), i.e. the natural quality of the water will not be altered after reasonable mixing. Appendix D of the Officer's report notes that evidence is required to demonstrate this, otherwise they should be assessed as non-complying activities. Mr Kennedy has addressed this matter in his S42A response and noted that significant on-site management practices will be needed to ensure the standards are met, but that it is achievable. Therefore discretionary activity status is maintained.
- k) CRC061981, CRC061982, and CRC061950 – these relate to (or include) discharges to the Waimakariri River from operational activities, e.g. discharges from bywashes, fish passes, etc. Mr Kennedy

considers that any adverse effects on water quality are will meet relevant standards and therefore discretionary activity status under Rule 6.1 of the WRRP is maintained.

Use of Water for Irrigation

- I) CRC061973, CRC061972 – These applications relate to the use of water from the Waimakariri and Rakaia Rivers. In paragraph 194 of the Officer's report it is noted that 850 ha of the Scheme area (as notified) falls within the Christchurch Groundwater Recharge Zone, and is therefore a non-complying activity. As noted in opening submissions on behalf of the applicant, this area has recently been removed from the Scheme area for the purpose of the current applications, and therefore the activity remains as a discretionary activity under Rule WQN26.

CONCLUSIONS

9. A large degree of agreement exists on activity status between Attachment 1 of my primary evidence and Appendix D of the S42A Officer's report. I have not found the need to amend Attachment 1.
10. The conclusions made in various sections of my primary evidence still stand, namely that:
 - a) when considering activities on an individual basis and not at application level, the great majority of activities relating to the CPWES are at worst discretionary activities;
 - b) those activities classified as non-complying are spatially discrete and not closely related, and therefore in my view they should not result in the entire CPWES being classified as non-complying, as this does not represent the reality of the situation;
 - c) all those activities classified as non-complying stem from the PNRRP, which has not advanced sufficiently through the plan process (i.e. no decisions made on Chapters 4-9) to the point where it can be considered to carry significant weight.

Daniel Murray