

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 Water Plains 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 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

AND

IN THE MATTER OF various submissions by the Selwyn Plantation Board Limited in respect of the above applications

**LEGAL SUBMISSIONS PRESENTED ON BEHALF OF
SELWYN PLANTATION BOARD LIMITED**

Dated 13 August 2008

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Introduction

- 1 The Selwyn Plantation Board Limited (SPBL) is a forestry and land utilisation company with significant land holdings on the Canterbury Plains and in the Canterbury foothills of the Selwyn District.
- 2 The company's forest estate is located primarily on the foothills. Some of this estate, known as the Coalgate Forest, will be inundated by the proposed Wainiwaniwa Reservoir (the Reservoir).
- 3 SPBL considers that the proposed water enhancement scheme (the Scheme) proposed by Central Plains Water Limited (CPWL), as publicly notified, will have a more than minor adverse effect on Coalgate Forest and operation of SPBL's plantation forest business.
- 4 However, some of SPBL's land on the Canterbury Plains falls within the command area of the Scheme. SPBL is a shareholder in SPBL. Approval and construction of the Scheme will assist SPBL to realise the agricultural development potential of its land served by the Scheme.
- 5 Consequently, SPBL occupies a perhaps unique position among submitters in that this Scheme potentially delivers both important benefits and significant disadvantages to SPBL.

SPBL's submissions

- 6 This dichotomy is reflected in SPBL's original submissions on the notice of requirement and consent applications lodged by CPWL and Central Plains Water Trust respectively.
- 7 For example, SPBL's submission on the various resource consent applications to the Canterbury Regional Council (ECan) stated that:

"SPBL opposes each of the applications referred to below insofar as such applications will or may cause adverse effects that are more than minor on SPBL's land, operation of SPBL's plantation forest business, SPBL's obligations under its Forest Stewardship Certification (FSC) accreditation and SPBL's land development opportunities".¹

- 8 And further, SPBL sought the following general relief:

¹ Refer paragraph 1 of SPBL's submission on applications for resource consents to ECan dated 18 August 2006.

"Generally that the scheme is substantially modified to avoid, remedy or mitigate adverse effects on SPBL's operations, lands and land development opportunities..."²

9 Overall and throughout this matter SPBL's position is that it would be willing to support CPWL's applications provided that there was no net loss to those parts of its lands and business potentially adversely affected by the proposed water enhancement scheme.

Discussions with CPWL

10 Following completion of various assessments to better understand the likely nature and scale of potential adverse effects, during 2007 SPBL initiated dialogue with CPWL regarding its concerns about the Scheme. The parties have met on numerous occasions over the past 12 months to resolve the issues raised in SPBL's submissions.

11 The discussions particularly focused on the following matters:

- Provision of alternative access to SPBL's Coalgate estate;
- Measures to identify and manage any adverse effects that may arise from inundation of abandoned underground coal mines on SPBL's land;
- Potential sedimentation of the Reservoir arising from forest operations on SPBL's land;
- Loss or damage to wetlands on SPBL's land caused by inundation; and
- Measures to guarantee performance of commitments made by CPWL to address the above matters.

12 CPWL and SPBL have reached agreement to resolve SPBL's objections to the Scheme (the Agreement). The Agreement includes inter alia agreed conditions of consent to be volunteered by CPWL, which are supported by SPBL. The agreed conditions will be discussed in the evidence to be presented by Mr Kerry Ellem on behalf of the company.

Agreed conditions of consent

13 The following comments are noted regarding the agreed conditions of consent:

13.1 The Agreement does not specify the particular consent to which the conditions should attach. Because the adverse effects that the conditions seek to address


² Supra at paragraph 10.

relate to inundation caused by the Reservoir, it is suggested that the conditions attach to:

- (a) either a general schedule of conditions relating to any ECan resource consent granted to dam and divert water in the Wainiwaniwa River , or
- (b) more particularly, any resource consent granted by ECan in respect of application CRC061939, being

"To dam water in the Wainiwaniwa River for the purpose of creating the Reservoir";

- 13.2 None of the agreed conditions have yet been discussed with offices of ECan; and
- 13.3 The Agreement contemplates variation to the agreed conditions in the event that they are not acceptable to the consent authority in their current form.
- 14 The agreed conditions are the outcome of significant efforts by both CPWL and SPBL. Subject to my comments above, it is submitted that they are valid, necessary and appropriate.



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C S Fowler

Counsel for Selwyn Plantation Board Limited