

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** various applications by the Central Plains Water Trust to the Canterbury Regional Council.

## **S42A REPORTING OFFICER'S RESPONSE TO SUBMITTERS**

### **Report of Angela Dean**

1. This report details my response to the points raised by the submitters in response to the recommended conditions for the Central Plains Water Enhancement Scheme.

### **Lowland Farming Group**

2. The Lowland Farming Group submitted their response to the conditions prior to the submission of the s42a report on 5 March 2010. Their concerns were addressed in the report submitted on 5 March.

### **Selwyn District Council (SDC)**

3. I have reviewed SDC's submission and the applicant's response to that submission. I am in agreement with the majority of the applicant's comments, and will not repeat those in this report. I have detailed any difference in view with the applicant, and additional supporting information below.
4. SDC submits that information contained in the Groundwater and Drainage Plan (GDP) provided to the Canterbury Regional Council (CRC) should be to the satisfaction of the CRC. I agree with the comments made by the applicant regarding SDC's position. I also note that one of the roles of the Groundwater Technical Review Panel (GTRP) is to audit any information contained within the GDP, and that the members of that panel should have sufficient expertise and experience to ensure that the information is appropriate and accurate. This should remove the need for the CRC to certify that the information meets the requirements set out in the GDP conditions.
5. In condition 25(f) SDC has requested that the word "all" is placed before existing data. The applicant considers that this is too onerous, as the condition implies that if not all data is used they would be non-compliant with that condition. I consider that the wording "all available existing data" be used as an alternative.
6. SDC has suggested that mitigation be undertaken within specified timeframes (condition 25(g)(iii), and at the end of 25(h)). The applicant considers that the 30 day timeframe suggested by SDC is not practical. I agree with SDC that timeframes need to be specified for the implementation of mitigation.

7. SDC has suggested the applicant supplies an alternative water supply for domestic dwelling when the nitrate-nitrogen concentrations exceed six grams per cubic metre. I agree with the applicant's comments on this point.
8. The SDC has requested that the response to groundwater complaints be completed within a specified timeframe. I have addressed this point in my s42a report dated 5 March 2010.
9. I agree with the applicant's other comments in relation to SDC's submission.

### **Tony Raizis**

10. Mr Raizis is concerned that the conditions do not adequately protect the Christchurch aquifer water levels from reduced recharge from the Waimakariri River. I have asked Dr Howard Williams (groundwater scientist at the CRC) to address Mr Raizis' submission, however Dr Williams was unavailable for comment at the time this report was written. Dr Williams is available to provide advice at the hearing.

### **Fish and Game**

#### Fish screens

11. Fish and Game agree with the proposed conditions.

#### Access

12. Fish and Game has proposed an amendment to condition 23 of consent application CRC102331 as follows:

*"All existing access points, both vehicle and walking, to and along the Rakaia and Waimakariri Rivers shall be maintained or enhanced by any associated works, diversion, or structures put in place by the consent holder."*

13. In the report dated 19 March 2010, Walter Lewthwaite states that it is realistic for the applicant to provide access near existing access points at all times during construction and operation. I agree that this is appropriate in situations where access at existing points could affect public safety, and as such recommend the addition of the following clause to the condition proposed by Fish and Game:

*If existing access points to the Rakaia and Waimakariri Rivers are considered to be unsafe due to the exercise of this consent, the consent holder shall provide an alternative access point to and along the affected reaches of the rivers, near to the existing access point. Any new access points shall be suitable to be used by four-wheel drive vehicles.*

#### Waimakariri Intake

14. No comment, however agree that the location of the intake needs to be specified prior to consent being granted to ensure all parties are certain of the location.

#### Controls on abstraction from the Waimakariri River

15. No comment required

#### Management Plans

16. No comment required

General Conditions

17. Agree with proposed amendment to conditions 6(a) and 6(d)(iii).

**Christchurch City Council (CCC)**

Paragraph 2.2

18. The CCC has requested that the following condition be added to CRC061972 (to take water from the Waimakariri River):

*“The abstraction of water from the Waimakariri River must only occur when the water requirements for the CPW scheme cannot reasonably be met by abstraction of water from the Rakaia River.”*

19. In their summary of the submissions, the applicant has proposed the following alternative wording:

*“Where practicable, this consent will not be exercised when sufficient water is available from the Rakaia water under consent number CRC021091”*

20. I have discussed the proposed conditions with Marie Dysart (solicitor at the CRC). Ms Dysart advises that if the purpose of the condition is to protect flows in the Waimakariri River, then I consider that the condition be re-worded as follows to ensure water is taken from the Rakaia River first:

*“This consent shall be exercised only when all the available water that can be taken by the consent holder under CRC021091 is being taken”*

Paragraph 2.5

21. CCC states that the Groundwater Technical Review Panel (GTRP) should be jointly appointed by the consent holder and the CRC. I do not consider this to be necessary, however note that the conditions do not currently require the consent holder to notify the CRC how the members of the panel meet the requirements specified in conditions 21 and conditions 22 of Schedule 2. I consider that it is appropriate to add a clause to this condition which requires the consent holder, as part of the reporting requirements of the GTRP, report annually to the CRC the membership of the GTRP, any changes to the GTRP over the previous year, and their qualifications and experience.

Paragraph 2.6

22. The CCC has requested that the GTRP consists of an uneven number to ensure that a majority view can be reached. I accept this, however I consider that seven people on the panel would be more appropriate as five people may be too few to provide all the expertise required in conditions 21 and 22.

Paragraph 2.7

23. The CCC states that the trigger levels need to be defined in terms of maximum level and length of time water which levels are raised. I agree that this should be made explicit in the Groundwater and Drainage Plan and associated conditions.

Paragraph 2.8

24. The CCC submits that the condition 25(i)(v) should have a wider mitigation requirement than the effects on groundwater quality from increased concentration of nitrates. The CCC also seeks for this condition to address effects on groundwater quality associated with waste water disposal systems and old landfills. The applicant disagrees with the proposed condition as it would require them to provide an alternate water supply where their contribution would be minor. The applicant considers that it could be addressed in the Groundwater and Drainage Plan.

25. I have sought advice from Mr Carl Hanson (groundwater quality scientist at the CRC) regarding the potential effects on groundwater quality from waste water disposal systems and land fills. At the time this report was written, Mr Hanson was unavailable for comment, however will be present at the hearing to answer any questions from the Commissioners.

**Canterbury Regional Council**

Water and Soil Conservation Act 1941 (section 154)

26. The Regional Engineer states that the works in riparian margins and beds of rivers under the control of the CRC may not be able to be exercised unless permitted by the Regional Engineer. The Regional Engineer also states that it is necessary for the Regional Engineer to receive the same information as the Compliance and Enforcement Manager, as well as a formal request for the necessary permission.

27. I agree that the applicant should provide the Regional Engineer with the same information as the Compliance and Enforcement Manager for rivers under its control. I consider it is appropriate to address the second point with an advice note on the conditions informing the consent holder that they may require permission from the Regional Engineer to undertake the works.

CRC102330 (condition 26) and CRC102331 (condition 24)

28. The Regional Engineer seeks that access to the bed of the Waimakariri River is maintained to a standard which allows the safe passage of heavy machinery. I note that CPW accepts this, I am able to re-word the condition to ensure access for heavy machinery is maintained.

Leakage from the headrace (CRC061973 and CRC061949)

29. The Regional Engineer considers that the condition limiting leakage from the distribution network to 20% is an error and that leakage should be capped at 10%.

30. The applicant has reviewed the Regional Engineer's concerns and considers that the combined leakage and bywash discharge should be 20%, as opposed to capping the leakage to 10%.
31. The Regional Policy Statement (Chapter 9, Policy 3) states "promote efficiency in the use of water". Issue WQN5 of the Proposed Natural Resources Regional Plan (PNRRP) acknowledges that the excessive use of water (including leaky conveyance systems) can lead to water resources reaching full allocation more quickly, reducing the availability of water for other users (ie the Rakaia River). Given this, I consider that the applicant should be required to ensure that leakage from the distribution network is minimised to the greatest extent possible.

CRC061982 – sediment sluicing

32. The Regional Engineer queried whether or not condition 11 overrides condition 9. These conditions should be read in conjunction with each other and can be reworded to ensure this is clear.

CRC102331 – access to the Waimakariri River

33. The Regional Engineer seeks that the conditions of this consent are worked so that access to the river is not "impeded", as opposed to access being "prevented". I agree that prevent and impede could be interpreted differently. I consider that the wording discussed earlier in this report (under Fish and Game's submission above) may be appropriate to address the Regional Engineer's concerns.

**Waimakariri District Council (WDC) and Waimakariri Irrigation Limited (WIL)**

34. WDC and WIL have suggested alternative wording to condition 7 of CRC102330 and CRC102331, and has proposed two additional conditions. I note the applicant has agreed to the majority of these conditions, however seeks to qualify the "contributes to a loss of the ability...to operate their intakes..." by inserting the term "*materially*". I do not consider that the addition of this term adds anything to the condition.
35. In paragraph 10, Peter Callander (for WDC and WIL) states that the current conditions on the application to take water from the Waimakariri River (CRC061972) do not necessarily protect the reliability of supply for existing users, given the use of the term "unmodified flow". Mr Callander states that many of the A permit water holders on the Waimakariri River have minimum flows based on measured flows in the Waimakariri River.
36. I note that as part of the review of all water takes from the Waimakariri River after the Waimakariri River Regional Plan (WRRP) became operative in 2004, the CRC made a decision to remove the term "unmodified" flow from these permits as it was difficult to monitor. WIL's water permit specifies minimum flow restrictions based on "unmodified" flows, and have presented an argument to retain the term "unmodified" flow on their permit. This issue is yet to be resolved.
37. I have recommended that the minimum flow be based on "unmodified" flows to be consistent with the WRRP, however I note that this could have potential effects

on the reliability of supply of existing water users. I can see two ways to address this issue: refer to measured flows at the Old Highway Bridge, or refer to measured flows at Otarama, as per WRRP Plan Change 1 (PC1). I note that Notice of Hearing for PC1 has been set, and the hearing will start on 12 April 2010. From my understanding, the officer's report for PC1 will be recommending a minimum flow different to that notified (subject to further work undertaken on losses from the river as river recharge). I am reluctant to recommend minimum flows consistent with PC1 as notified, given that it is likely to change.

38. The applicant states that this issue is being addressed by the CRC with PC1, and that the issues can be resolved through that process. I agree that once PC1 becomes operative, all existing water permits will be reviewed to ensure their minimum flows are consistent with the plan change. In the meantime, I am satisfied with the current wording of the consent conditions.
39. WIL and WDC support that CPW may only use A permit water in agreement with those permit holders. They suggest that the advice not at the end of condition 3(iii) should state that "*written agreement must be in the form of a fax or signed written document*". I agree with this change.
40. Mr Callander has also pointed out an error in the description of CRC061972 (reference to 40 cubic metres per second instead of 24 cubic metres per second). I agree that it should be amended.

#### **Department of Conservation (DoC)**

##### Section 3.2 – Management Plans

41. DoC has submitted that the Landscape and Rehabilitation Plan linked to the land use consents does not provide any framework as to why the plan is required, and the specific effects it seeks to mitigate.
42. To clarify, the plan is required to ensure that any vegetation planted in/on the banks of the rivers do not spread into the bed of the rivers. The plan seeks to avoid any effects that may occur if vegetation spreads into the bed of the river (effects discussed in previous evidence) by controlling the types of plants which may be planted and restricting the area where the planting may occur.
43. After bringing this to my attention, I have reviewed evidence presented by Dr Philip Grove (CRC Terrestrial Ecologist). In his evidence he states that any native river bed vegetation present in footprint of the intake and associated works should be avoided and that if native vegetation is directly affected by works, compensation or offsets will be required (such as planting and re-establishing of new habitat).
44. I consider that a site survey should be undertaken as part of the Landscape and Rehabilitation Plan to identify any sites (areas of significant vegetation and wetlands) that need to be protected, and sites which can not be avoided. The Plan should also specify mitigation and remediation works to compensate for the loss of any significant vegetation.

### Section 3.3 – Canterbury Mud Fish

45. I have requested advice from Dr Adrian Meredith about the level of protection that may be required for the Canterbury Mudfish during works in waterways. Dr Meredith was unavailable to comment when this report was written, however he is available to discuss this matter at the hearing, if required by the Commissioners.
46. I note that there will no longer be bywash discharges into the Hawkins, Waianiwaniwa, Selwyn and Horrorata Rivers, however there may be temporary and/or intermittent stormwater discharges from hardstand areas within the scheme area into these waterways. Dr Meredith will advise what measures the applicant may need put into place to protect mudfish.

### Section 3.4 – Farm Management Plans

47. The conditions related to Farm Management Plans specify the objectives of that plan. One objective of the Plan is to protect moderate and high value biodiversity sites. DoC submits that the conditions do not provide guidance on how to protect the sites or how they should be assessed. They also point out that the terms “moderate or high” (biodiversity sites) have not been defined.
48. I agree that the person who audits the Farm Management Plan may not have the relevant expertise or experience to audit a plan which includes an objective to protect biodiversity sites. I agree that the conditions need to firstly define what a moderate or high biodiversity site is, secondly require the development of a terrestrial ecology protection plan (outlining requirements for site identification and protection) and thirdly, a certification process for the terrestrial ecology protection plan. I note that the Terrestrial Ecology Protection Plan in the consents issued by the Selwyn District Council (“SDC consents”) may be used as a template to develop conditions for a terrestrial ecology protection plan for the consents issued by the CRC.

### Section 3.6 – discharge consents

49. DoC notes that condition 2(c) of CRC102335 would allow for mixing of water across catchments. I have also noted this in my s42a report.
50. In the event that the Commissioners agree that condition 2(c) is appropriate, I agree that a condition should be included specifying that fish passage shall not be prevented.

### Section 3.7 – water take consents

51. DoC states that the review of fish screen design parameters based on new information may be appropriate. I consider that monitoring of fish screen performance may be more appropriate (also suggested by DoC) as if the current screen is not performing, then enforcement action can be undertaken to ensure that the screen meets certain criteria. I have asked Dr Adrian Meredith (surface water scientist at the CRC) to address this matter. He is available to provide technical advice at the hearing.

### Section 3.8 – general conditions

52. DoC refers to condition 6(d)(i)A, where an “expert” recommends mitigation for effects on bird habitats in the bed of a river. DoC are concerned that the qualifications and expertise of the “expert” have not been specified. I note that the expert’s qualifications have been outlined in condition 6(d)(ii). Condition 6 can be re-worded to ensure it is clear what criteria the expert must meet.

### **Historic Places Trust (HPT)**

#### Accidental Discovery Protocol (ADP)

53. HPT submits that the ADP conditions provided by SDC and the CRC are conflicting, and have proposed an alternative condition. I consider that the conditions related to sites of significance and ADP should be consistent with the requirements placed on the conditions for the “SDC consents” to avoid any confusion for the consent holder.

54. I have reviewed the ADP condition provided by HTP and agree there are additional provisions (such as the notification of police if human remains are discovered) that should be included in the suite of conditions.

#### Archaeological Management Plan

55. HPT submits that the Archaeological Management Plan (to be submitted as part of the Environmental Construction Management Plan) does not specify any objectives or guidance for its contents. They suggest that the plan is a duplication of the historic management plan referred to in their submission. I agree that the Archaeological Management Plan does not specify any objectives. The Plan should require the applicant to undertake a site survey to identify any sites of significance prior to the works.

### **Ngai Tahu**

#### Lake Ellesmere/Te Waihora

56. Ngai Tahu states that they expect that the consent conditions should make provision for ongoing Ngai Tahu involvement throughout the stages of the scheme, and in particular, involvement in the development of management plans.

57. Given the significance of Lake Ellesmere/Te Waihora to Ngai Tahu, I agree that it would be appropriate that the consent holder consults with Ngai Tahu when developing the Groundwater and Drainage Plan, and regarding the trigger levels for water quality in Lake Ellesmere/Te Waihora.

58. Ngai Tahu also request that the applicant undertakes comprehensive pre-commissioning monitoring in consultation with Ngai Tahu. I note that monitoring of water quality in Lake Ellesmere/Te Waihora is already a requirement in the recommended consent conditions. I also note that there is existing monitoring data for the lake, including water levels and water quality. Any information held by the CRC regarding water levels and quality for the lake is readily available for the applicant to use as part of their monitoring programme and development of trigger levels.

Sites of significance and accidental discovery:

59. Ngai Tahu submits that the conditions related to archaeological matters should focus on the prevention of damage to sites of significance. I have recommended conditions which require action from the consent holder in the event of an accidental discovery, an approach which Ngai Tahu disagree with. I note that Ngai Tahu favour conditions that require a site survey prior to construction.
60. Ngai Tahu submits that any site survey should be undertaken by a Ngai Tahu approved archaeologist and that consideration should be given to imposing a requirement for the consent holder to have a cultural monitor on site during earthworks in any areas where there are likely to be sites of significance. In the event that the Commissioners consider that a cultural monitor is necessary, I am able to prepare a condition requiring an on-site cultural monitor during works in areas were there are likely to be sites of significance.
61. Ngai Tahu requested that an advice note is included informing the applicant that any work affecting archaeological sites is subject to a consent process under the Historic Places Act 1993. I agree that this can be included as an advice note in the consent conditions.

**Malvern Hills Protection Society (MHPS)**

62. The MHPS are concerned with groundwater quality, and have requested that purpose built monitoring bores are located up-gradient of the scheme. I have sought advice from Mr Hanson regarding the necessity of placing monitoring bores up-gradient of the scheme (and therefore possibly up-gradient of any irrigation on the plains). Mr Hanson is available to respond to MHPS's submission at the hearing.

**Gravel Extractors Group (GEG)**

63. I have reviewed the submission from the GEG. I have also reviewed the applicant's comments on the GEG submission. I agree with the applicant that the majority of the amendments suggested by the GEG can be incorporated into the conditions.
64. The GEG has also requested a condition which requires the applicant to work with the GEG to *"find and implement a solution to provide security to the gravel resource in the vicinity of Miners Road"*. I understand that the applicant is already in consultation with the GEG regarding alternative solutions (such as applications to change the conditions to existing consents to allow excavation below any new "spike" in groundwater levels). The applicant considers that this type of condition would not be enforceable.
65. I agree that this matter may not be able to be resolved through conditions and is best addressed outside the consent process. The use of water by the applicant does effect the implementation of the consents held by the GEG, however advice from Ms Dysart is that a collateral agreement between the applicant and the GEG would be required to address the issue.

**Whitewater New Zealand, Whitewater Canoe Club and Arawa Canoe Club  
("Canoe Clubs")**

66. The Canoe Clubs have requested changes to the "holiday rule". If the Commissioners decide to retain the "holiday rule", I agree with the changes to that condition requested by the Canoe Clubs.
67. The Canoe Clubs have also made alterations to the conditions related to safety features of the intake structure. I agree that these changes can be made to the conditions, however they may need to be re-worded to ensure they are clear, enforceable and valid conditions.

**Central Plains Water – response to conditions**

68. Ms Helen Shaw (on behalf of the applicant) provided a report addressing the recommended conditions for the discharge permits. Ms Helen Caley (discharges Consents Investigating Officer at the CRC) has prepared a memorandum in response to Ms Shaw's comments, which is appended to this report as Appendix A.
69. I note that conditions addressing TrustPower's concerns were omitted from the recommended conditions. I have discussed these conditions with Mr Walter Lewthwaite, and we will present a set of conditions that are enforceable and monitorable and at the hearing.

Signed:

Date:

**Angela Dean  
Consents Investigating Officer**

Reviewer:

**Dirk Brand  
Consents Investigations Team Leader**