

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of applications for resource consent by the Central Plains Water trust and a notice of requirement for the designation of land by Central Plains Water Limited associated with the construction and operation of the Central Plains Water Scheme

**JOINT SUBMISSION FROM WHITEWATER NEW ZEALAND (previously
“NZRCA”), WHITEWATER CANOE CLUB AND ARAWA CANOE CLUB**

INTRODUCTION

1. This submission is on behalf of Whitewater New Zealand, the Whitewater Canoe Club and Arawa Canoe Club, and complements evidence already provided to the Commissioners during the course of the hearing.
2. In particular, this evidence is in relation to matters raised by the Commissioners in Minutes 11, 12, 12A and 14, released by the Commissioners in late 2009 and early 2010.

BACKGROUND

3. During the course of the hearing evidence provided by the above-named parties, and additional evidence provided by a number of kayakers including Mr Ian Gill-Fox, Mr Hugh Canard and Dr Ian Huntsman sought to convince the Commissioners of a number of key points, including:

- a. the importance of the Rakaia River and more so of the Waimakariri River for kayaking, and the substantial recreational amenity offered by the rivers to large numbers of paddlers;
 - b. the desirability of a wide range of flows in the Waimakariri river;
 - c. the desired minimum flows for kayaking in the Waimakariri River vary by paddler, but that an absolute minimum flow as measured at the Old Highway Bridge of 50 cubic metres per second (cumecs) is required;
 - d. the intake structures, as proposed above the Waimakariri Gorge Bridge, are exceedingly dangerous, and may lead to paddler entrapment and death.
4. Much of this evidence appears to have been accepted by the Commissioners.
5. Safety concerns have been recognised by the Commissioners – for example, as outlined in the contents of Minute 11, which noted at paragraph 5.5 that: *Potential impacts on the safety of kayakers in the vicinity of the Waimakariri intake will need to be addressed, but in our view can be addressed as a matter of final design. The applicant has agreed to a condition which requires a safety audit of the final design by a suitably qualified expert.*
6. Our concerns about the loss of kayaking amenity have been noted in paragraphs 8.2 – 8.13 of Minute 12.
7. Further, Minute 12 also notes:
- 1.7 *In Minute 9 we set out our preliminary views as to a sustainable take by CPW from the Waimakariri River. Having heard further evidence relating to the amended take regime now proposed by CPW, we are satisfied that with some minor modifications the proposed taking of water from the Waimakariri River at the Gorge Bridge will achieve the sustainable management purpose of the Resource Management Act (**the Act**) and will accord with the principles of the Act as set out in Part 2.*
 - 1.8 *As will be apparent from this Minute and Minute 9, the issues regarding the taking of further water from the Waimakariri are complex. These issues are*

important to the Applicant in terms of how much water may be available to it. They are also critically important to the Regional Council as manager (steward) of the resource, submitters and the Community as a whole. It is for that reason that we have embarked on a quite lengthy discussion of the issues. We will not be repeating this discussion in our final decision.

- 1.9** *We have undertaken a balancing exercise focussed on the sustainable management of the Waimakariri River resource. We have balanced the protection of in stream values and river users alongside the out-of-stream benefits of CPW's water take, including consideration of efficiency and reliability of water use. Our starting point has necessarily been in stream needs rather than the Applicant's needs/preferences. CPW will not have access to as much water as it originally sought and indeed we will be imposing additional restrictions beyond those proposed by CPW at the resumed hearing.*
- 1.10** *Our role is to evaluate the potential effects of the revised CPW proposal (which is now essentially an irrigation season run-of-river water take), and in the case of this Minute, to decide what mitigation measures should be required through conditions. This is a matter of weighing the effects cumulatively in tandem with the effects of existing takes. Much of the analysis of effects which we have heard is based on the assumption of full exercising of all allocations. We note that even with increased transfers of allocations among users, this worst-case situation will occur only rarely, and that it is the river and its users which benefit from unused allocations.*
- 1.11** *While our decision will affect any future allocations of water from the Waimakariri in a major way, it is not our role to decide how future allocations should be made. We appreciate that this decision has consequences for the PPC1 decision process. However it is not our role to either decide the PPC1 outcome, nor to require the CPW take to mitigate the effects of other consented takes of water.*
- 1.12** *We have concluded on the basis of the evidence presented to this hearing, that a Waimakariri flow regime with 1:1 flow sharing for the B permit take of up to 24 cumecs beginning above an Old Highway Bridge (**OHB**) unmodified flow of around 65 cumecs (41+A+B1 allocations), with some additional mitigating conditions applied, will be sustainable.*
- 1.13** *Adopting an overall balancing approach, we have concluded that the take will allow people and communities to provide for their economic needs, while at the same time ensuring that ecological and other natural values are sustained and amenity values are not affected in any significant way.*
- 1.14** *We have concluded that the modified regime now proposed by CPW will, with some additional restrictions, adequately avoid, remedy or mitigate the potential adverse effects (including cumulative effects) of the take to the extent that it will be in accord with the purpose and principles of the Act.*
- 1.15** *We have concluded that the more restrictive take regime set out in PPC1 is not required in order to adequately (sustainable) mitigate the effects of the CPW take.*
- 1.16** *The take regime which we consider to be appropriate, will allow CPW during the irrigation season, to commence taking water when unmodified flows at the Old Highway Bridge are at approximately 65 cumecs (m³/second). CPW will be able to take 24 out of the next 48 cumecs of flow, up to approximately 103 cumecs on a one to one basis (out of every 2 cubic metres of B water 1 can be taken by CPW and 1 left in the river). We have also concluded that there should be additional provision for flushing flows to pass unimpeded after periods of 14 days or more of sustained low flow (CPW had proposed a 21 day flow trigger).*
- 1.17** *We have concluded that to further mitigate adverse effects on recreational amenity, there should be an additional restriction on the take during potential peak usage times in the summer, so that for some of that period, the take*

can not commence until an unmodified OHB flow of around 75 cumecs. The objective would be to so far as is possible, maintain a residual flow of at least 55 cumecs (when that would have occurred but for CPW). We have set out our views as to a possible condition, however, the merits and details of any such additional restriction will need to be addressed by CPW, Environment Canterbury (ECan) officers and relevant submitters and if included, will be detailed in our final decision.

8. As acknowledged by the Commissioners, if the regime described in 1.16 above is implemented on its own, the kayaking amenity will be significantly negatively affected. Conditions are therefore required to avoid or mitigate this effect, and to this end the Commissioners have proposed such conditions restricting the quantity of water that may be taken.

Proposed Conditions

9. There have been two conditions noted in Minutes 11 and 12, and restated in Minute 14 which have potential to mitigate;
 - a. some of the considerable loss in kayaking amenity which the scheme, if approved, will bring about, and
 - b. some of the dangers posed by the intake structures in the Rakaia and Waimakariri Rivers.

Restrictions on takes to reduce the loss of kayaking amenity

10. Firstly, paragraphs 8.8 to 8.13 of Minute 12 propose a condition to mitigate potential effects on kayaking. As drafted, the proposed conceptual condition stated: *No taking by CPW (under this B permit consent) at unmodified OHB flows of below (say) 75 cumecs between 9am and 9pm on Saturdays and Sundays, each weekend between November and March inclusive, and on all public holidays, and on every day during the period commencing the Friday before Christmas each year through to the end of February (para 8.11).* It is also suggested that: *An alternative or additional approach may be to limit*

afternoon or early evening takes on say 2 out of 3 weekdays over summer.(para 8.13)

11. The proposed wording the Appendix 2 to the Section 42A Reporting Officer's summary of Conditions dated 5 March 2010, incorporates the Commissioners paragraph 8.13 above, at condition 3 (v) of CRC 061972. It does not incorporate the Commissioners' suggestion in respect of evening flows.
12. Such a condition will help to mitigate, but not eliminate, loss of kayaking amenity during the peak of the summer period, and in the lead-up to the Coast to Coast event.
13. We noted in our evidence that use of the Waimakariri takes place throughout the week, so we recommend that some weekday time be allowed as well. The suggested amendment to the condition to give effect to this is shown in the **appended** marked up version of CRC061972.
14. Of particular note is the requirement that the takes at the Gorge Bridge will have to be timed so as to achieve the increase in flows on the section near the Old Highway Bridge during the required time – so the actual “off-on” period at the intake will be ahead of the effective time downstream. Also, often the Waimakariri receives early morning use, so a 7am to 7pm period would be more useful for kayakers than a 9am to 9pm period.
15. Finally, it is important to note that any closure of the intake structure be phased in over a time period to avoid a step increase in water levels downstream. However, the exact likely effect of reductions and increases in flow caused by the take ceasing and recommencing, is a potential effect that cannot be quantified at this point. It is requested that the effect of ceasing and recommencing the take on water levels

be monitored with a view to determining if the subsequent rate of raising and lowering of flow is posing a risk to any river user.

16. We therefore **append** a marked up version of condition 3 .incorporating changes to meet these concerns.

Intake structures

17. We have been discussing appropriate conditions associated with the intake structures with the Applicant's advisors. In particular, Mr Hugh Canard has spent a considerable amount of time looking at these issues with Mr Walter Lewthwaite of URS. Whilst this is still not quite finalised, a series of conditions involving the use of and certification by independent experts is close to resolution.
18. Although the condition will most likely note that safety features of the intake structures shall be designed by the Applicant in consultation with Whitewater NZ and the New Zealand Jet Boat Association, we want to make it clear that the responsibility for performance and safety of the intakes shall be the sole responsibility of the Applicant. Further, we continue to assert that a river with an intake structure is inherently more hazardous than one without such a structure. We do not support the placement of intake structures in either the Waimakariri or the Rakaia, but we have worked with Mr Lewthwaite to ensure that if intakes are built that the risk they pose is reduced. However, we do not believe that the risk posed by the intakes can be eliminated.
19. We expect that we will agree terms with the Applicant over the next few weeks, and will advise the Commissioners at the hearing on 24 and 25 March of our progress in reaching agreement.
20. We **append** the current draft of the conditions being discussed with Mr Lewthwaite. It does not yet reflect final agreement, but it is in a form broadly acceptable to the kayaking submitters. The changes

additional to the conditions as circulated by Ecan address our concerns in respect of:

- a. Consultation requirements
 - b. Setting an enforceable, objective performance standard
 - c. Ability for a kayaker at the intake to exit water with kayak, and either walk to a place to re enter river, or get to the road
 - d. Warning signs
 - e. Notification of commencement of construction, and invitation to commissioning
 - f. 6 month live testing of the intake, and requirement to modify design depending on outcome of testing
 - g. Ongoing maintenance and cleaning requirements to ensure effectiveness
21. The changes appended relate to the Waimakariri intake. Consequential changes will be required to conditions in respect of the Rakaia intake also.

CONCLUSION

22. We wish to be heard at the hearing. It may be possible that we will have agreed some proposed wording for the conditions with respect to the intake ahead of that time, and we will advise the Commissioners of the status at that time.

