

**In the Matter of** the Resource Management Act 1991

**and**

**in the matter of** A Notice of Requirement to Selwyn District Council and applications to the Canterbury Regional Council

**by** Central Plains Water Limited and Central Plains Water Trust

### **Comments on conditions by the Malvern Hills Protection Society Inc**

1. Several members of the Malvern Hills Protection Society Inc. (the Society) remain adversely affected by the CPW Revised irrigation scheme. Some members will be addressing specific concerns related to their properties on the matter of conditions.
2. The Society makes these comments in support of members affected by the scheme and in particular Gillie and Tim Deans, Philip and Jocelyn Deans, Louise Deans, Cindy Mackenzie, John and Rosalie Austin and Madeleine de Jong. We also represent the wider membership concerned about declining water quality across the Central Plains region.
3. The commissioners will be aware of the Society's earlier submissions, which opposed the granting of consents and designations in their entirety. The Society has not shifted from this stance. In the light of the commissioners indicated intent to consent the revised scheme, the Society offers the following comments regarding conditions.

### **Lapsing date for consents and designation**

4. We oppose Condition 1 Schedule 2 (pg 67) which states an expiry period of 10 years for the lapsing of resource consents under section 125 of the Act. The 5 years provided for in the Act is a more than adequate period in which to give effect to the consent. Similarly we believe the 5 years provided for under section 184 of the Act for designation is adequate.
5. In June 2010 the Notices of Requirement will have been in force for 5 years. If decisions are appealed it could be a further 2 years before a final decision is made. A lapse period of 10 years could bring the total number to 17 years with the NOR's over properties with potentially no action. This is too long a restriction for property owners (planning blight) and for the 'locking up' of the water resource.
6. If the scheme is to proceed, we agree with the Commissioners in Minute 14, para 5.6 (pg 13) that with the removal of the dam and reservoir there be a shorter lapse period than 10 years. As above we suggest 5yrs.

## Headrace canal

7. The Society still has concerns at the location of the Headrace canal. Final consents should not be granted until the exact location is known in order to more precisely assess effects on each property.
8. Schedule A.1 (pg77) of the Resource Consent conditions uses vague terms in reference to the Headrace Canal, such as *at or about*, or the canal runs *generally southeast, north and north west*, and the word *approximately* is used 8 times. We find this level of detail unacceptable.
9. The Society still seeks an alternate route for the Headrace Canal, further down the plains and away from the Malvern foothills and the village of Coalgate. The area of the proposed Headrace through the foothills, we consider to be an area of high heritage and archaeological value. We see no way that the effects can be mitigated to avoid the loss of this national, significant amenity.
10. The location of the water distribution race network is even less definitive than the Headrace which is restricted to the designated area.
11. Schedule A.2 (pg 78) states *that the proposed water distribution race network will follow roads or run through private property in the rural areas of the inner Central Plains*. It then goes on to define the boundaries of the network but again uses vague terms such as *generally northeast or trends more generally north*.
12. At this stage of the proceedings we are still unable to ascertain the exact numbers of MHPS members who may be affected by the water distribution network and therefore unable to assess effects.

## Groundwater

13. The proposed conditions have not allayed the Society's fears about the potential for groundwater pollution within and downstream of the CPW scheme area.
14. We have read the submission of Hugh Blake-Manson, Asset Manager Utilities for Selwyn District Council, 28 February 2010. Mr Blake-Manson states in his submission that the conditions are considered to be *'problematic if not impossible to use.'*
15. In para 1.9 Mr Blake-Manson writes that the *'cause of and therefore responsibility for ownership of adverse effects will be difficult to substantiate within an appropriate level of certainty.'*
16. After reading Mr Lewthwaite's conditions and Mr Blake-Manson's further submission the Society fails to see how it will be feasible and affordable to set up and maintain the many monitoring and review panels needed.

17. We are concerned at the growing number of community drinking water supplies across the Central Plains that are already polluted. The community of Dunsandel is the latest community to be affected by e.coli contamination which was discovered in the community well in December 2009. The Dunsandel well is 71m deep and located in an unconfined aquifer. Initial investigations failed to conclusively reveal the source of the current contamination in the Dunsandel well and SDC chose to discontinue any further testing. Rather than find the source of contamination, the council has opted to install a new water treatment system at the expense of the ratepayers. If the CPW scheme proceeds, we expect more drinking water contamination and envisage that communities and individuals will incur an unfair burden of the costs to maintain, repair or replace existing drinking water wells, and other infrastructure. From the Dunsandel experience it appears too difficult to determine the source of the pollution.
18. With reference to Carl Hanson's memo (9 February) in relation to purpose built wells, farmer members of the Society suggest that to give a true and accurate measure of nitrate trends, purpose built wells should be located above the scheme boundary where the water is likely to be cleaner.
19. If the revised scheme is consented the Society requests that conditions be included which limit certain types of farming on the Central Plains such as dairying.

### **Doubts over sustainability of the scheme**

20. Pivotal to the RMA is the sustainability of an activity and its long term effects on the environment. Matters of financial solvency have been an ongoing theme with the CPW scheme during all phases of the application process and continue to be so. With the refinement of consent conditions, the plethora of scenarios requiring monitoring has been revealed, necessitating the implementation of many costly monitoring and review panels.
21. In Mr Lewthwaite's Groundwater and Drainage Conditions (12.02.2010) constant reference is made to the consent holder being accountable for meeting all responsibilities and costs associated with monitoring and reviewing of consent conditions and instigating compensation proceeding when the need arises. As the consent holder is the Trust (SDC and CCC ratepayers) this appears to indicate that ratepayers will be obliged to pick up these yet unknown and ongoing costs on behalf of the Central Plains Water company. The Society cannot find any reference in the Heads Of Agreement that states that the company will be responsible for compliance and monitoring costs.
22. The commissioners may recall that the Society presented legal evidence to the hearing outlining these very concerns. We draw your attention to para 24 of Michael Parker's evidence on 25 June 2008.
23. ... *whereby, although the Company is the exclusive user of the resource consents, its obligations do not include reporting on the use or operation of the consents, nor of the fact of or terms of Water Use Agreements, nor ensure compliance with those agreements in order to also ensure compliance with the resource consents.*

24. If the Trust has unwittingly been hoodwinked into picking up these costs, than a massive, unfair financial burden will be placed on the ratepayers of SDC and CCC. In that case, there will be widespread ratepayer revolt and the viability of the scheme's monitoring and review panels would be uncertain and sustainability of the scheme compromised.

### **Water Use by Other Parties**

25. This scheme has always been touted as a community scheme. The benefits would supposedly be realised by the wider community and the use of water was to be secured (through the Trust) for the sole use of the company. Many of our members have been hugely disadvantaged thus far and many are being asked to give up land for the modified scheme. If consents are granted, the Society seeks reassurance that water will not be on sold for a profit to corporate interests.

### **Waimakariri River and Lower Intake**

26. If consents are granted the Society remains concerned that the 24 cumec take from the Waimakariri River is in reality, sustainable. We prefer the more robust protection of an allocation gap between the Bands as outlined in the draft Waimakariri Plan Change 1.
27. We are also concerned that after 8 years, the precise location of the Waimakariri Lower Intake has not been provided by the applicant.
28. We believe the condition CRC061972 3. (a) (v) to be unnecessarily complicated and long winded.

We thank the Commissioners for considering these further comments on the conditions for the revised scheme.

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For Malvern Hills Protection Society Inc.  
12 March 2010