

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of applications for resource consents 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

**MEMORANDUM OF COUNSEL ON BEHALF OF THE ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED REGARDING APPLICANT'S
SUPPLEMENTARY EVIDENCE**

Dated 29 September 2009

Royal Forest and Bird Protection Society of New Zealand Incorporated
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1. Introduction

- 1.1. This memorandum sets out Forest and Bird's position regarding the revised CPW scheme. I will regretfully not be able to appear in person to present this memorandum, and I appreciate the Commissioners taking time to consider it.
- 1.2. Forest and Bird presented legal submissions on 10 June 2008 and submissions in reply on 14 August 2008. Those submissions stated that in Forest and Bird's view, the adverse environmental effects of the proposed scheme were such that the consents should not be granted. Forest and Bird presented evidence on the effects of the proposed scheme on terrestrial indigenous vegetation and habitats, and adopted the evidence of the Department of Conservation and Fish & Game on the effects on birdlife and native fish.
- 1.3. As a result of the Commissioners' interim decision regarding the proposed Waianiwanui reservoir, Coalgate dam and Upper Waimakariri intake, the Applicant has recently submitted evidence on an amended proposal. According to paragraph 6 of the evidence of Clifford Tipler of 7 September 2009, 'while there will be no dam nor upper Waimakariri intake and associated structures, all other physical works will remain essentially unchanged... Thus the intakes from each river will be at the same locations as proposed, within the designated areas; the head race canal will follow the same level grade across the plains, and the distribution network will be unchanged for each of the distribution zones as applied for.'

2. Evidence of Dr Colin Meurk

- 2.1. Dr Colin Meurk, on behalf of Forest and Bird, presented evidence on the impact of the original scheme on the terrestrial indigenous vegetation and habitats. Dr Meurk has not reassessed the revised scheme, but given the unchanged nature of the remaining components of the scheme a large proportion of his evidence remains relevant. This evidence includes:
 - a. an assessment of the effects of the Lower Waimakariri intake, and the traverse of the canal along the terrace scarp and across the Upper Plains (from the Lower Waimakariri intake). Paragraphs **18-22** of Dr Meurk's evidence deal with these areas.
 - b. an assessment of the effects of the Rakaia intake, and the traverse of the canal along the terrace scarp and across the Upper Plains (from the Rakaia intake). Paragraphs **33-35** are relevant in this regard.
 - c. an assessment of the indirect effects of the scheme on the Upper and Lower Plains. Paragraphs **36-42** are relevant.

- 2.2. Dr Meurk's evidence then goes on to describe the overall significance of terrestrial vegetation and habitat in the CPW scheme area. He also provides a summary of overall effects, and discusses areas of dispute and agreement raised by other experts. Dr Meurk's analysis, in paragraphs **44-51** (except the fifth bullet point in paragraph 50), therefore also remains relevant.
- 2.3. Dr Meurk's evidence regarding matters raised in other parties' evidence (paragraphs **52-129**) also remains applicable, where it relates to the remaining components of the scheme.
- 2.4. Dr Meurk then goes on to look at the avoidance, mitigation and remedy options. Paragraphs **133-146** contain his evidence in this regard, and remain relevant.
- 2.5. Dr Meurk's conclusion at paragraphs **149-152** is as follows:

149. My opinion is that there is nationally and regionally significant vegetation and wildlife habitat in the footprint of the CPW scheme which will be destroyed by proposed infrastructure, associated works, and downstream activities.

150. While the precise nature and location of this has not been provided, nevertheless, one can see that there will be considerable destructive effects on remaining natural values, within the context of an already decimated natural landscape.

151. In the context of ongoing attrition of similar habitat over the past few decades in Canterbury, the predicted losses of further primary habitat will amount to unacceptable cumulative loss of indigenous vegetation and habitat.

152. I believe there might be a compromise, but only if major measures of avoidance of the most serious environmental breaches occur, and there is genuine offsetting as part of the requirements. The true cost of this would need to be factored in by Central Plains as a significant cost in the overall project.

- 2.6. Finally, Dr Meurk suggests some conditions. These are found at paragraphs **153-155** and **157-158**.

3. Conclusion

- 3.1. While Dr Meurk will not be appearing at the reconvened hearing, Forest and Bird respectfully requests that the Commissioners re-familiarise themselves with the relevant parts of his evidence (as referenced above), and take this evidence into account when considering the revised scheme.
- 3.2. Similarly, we would appreciate if the Commissioners bore in mind the legal submissions made for Forest and Bird on 10 June and 14 August 2008.

- 3.3. Our understanding is that no further evidence has been submitted by the Applicant on the effects of the scheme on terrestrial indigenous vegetation and habitats, as discussed by Forest and Bird and Dr Meurk.
- 3.4. As mentioned above, at the previous hearings we supported the evidence of DOC and Fish & Game on birdlife and native fish values. We have not yet had the chance to review their assessment of the new evidence, so cannot comment on those matters.
- 3.5. Our position, as outlined in the legal submissions and supported in the evidence of Dr Meurk essentially remains unchanged. We continue to have concerns about the riverside vegetation remnants along both the Waimakariri and the Rakaia rivers, and the remnants of indigenous species and their habitats along the historic stock races that traverse the plains. The revised scheme will cause adverse effects in terms of significant indigenous vegetation and habitats, which in our understanding have not been adequately avoided, remedied or mitigated. As such, Forest and Bird opposes the granting of consents for the revised CPW scheme.

Dated: 29 September 2009



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Erika Toleman
Solicitor
Royal Forest and Bird Protection Society Inc