

## CENTRAL PLAINS WATER TRUST

### A SUMMARY OF A MINUTE PROVIDED BY THE COMMISSIONERS ON CENTRAL PLAINS WATER TRUST

1. Some weeks ago we signalled to CPWT/CPWL that our provisional view was that we should close the hearing at the end of April 2009, after considering the further information relating to the Ashburton Community Water Trust hydro scheme proposal which is part of the joint hearing. We signalled that we did not think that we required any further information from CPWT and CPWL.
2. We also informally advised CPWL that we would most likely be recommending that CPWL should withdraw its Notice of Requirement (NoR) for the Waianiwaniwa dam and reservoir, and for the associated upper Waimakariri intake and tunnel and that we would be declining associated consents.
3. We also indicated that our preliminary view, was that if we reject the dam and reservoir, we would need to also reject the balance of the project (even if we concluded that some or all of the other components could be acceptable without the dam). This is because the scheme has been presented to us as an integrated package.
4. We also noted that we have reached a tentative conclusion that (leaving aside the legal issues) the Waimakariri River and Rakaia River takes could probably be granted (albeit for lesser rates and volumes of take than have been applied for, at least in the case of the Waimakariri River).
5. We took the unusual step of advising CPWT of our likely conclusions on the dam, because we considered it appropriate for CPWT to have an opportunity to respond, in terms of how it sees that decision impacting on its scheme and on our decision making power in relation to the balance of the scheme
6. CPWT has responded asking that we do not close the CPWT part of the hearing but instead seek further information from CPWT as to the implications of our likely decision on the dam components; for the balance of the consents and Notice of Requirement for Designation.
7. CPWT/CPWL wish to address us on this issue. They suggest that we could still potentially grant consents for other aspects of the project and recommend

in favour of the NoR for the lower Waimakariri intake, the Rakaia intake, terrace canals and headrace canal.

8. In our view, given the significant investment in this project and the hearing to date, it is appropriate that we provide CPWT/CPWL with the opportunity to make submissions on this point and for others to respond. Whilst we have some reservations as to whether we could or should do what CPWT suggest, we also accept that an "all or nothing" approach is potentially wasteful of the significant effort that CPWT submitters and officers have put into this hearing. (In short, there is a danger that we may throw both the baby and the water out with the bathtub.)
9. We also accept that there are arguments available to CPWT to support the approach it is suggesting. It is also possible that if there are appeals, the Court may find that the dam and associated components are sustainable. In that event, it might be useful to the Court if we have made a first attempt to define whether the other components are acceptable.
10. We have decided on a process to resolve this procedural issue which we consider to be fair to all parties. We will hear submissions from CPWL and from other parties on these matters in early May.
11. We have commenced decision writing which at this stage is based upon a single decision which we had hoped to issue by the end of May or early in June 2009. This additional step in the process will unfortunately delay that somewhat, but it is a delay which CPW has requested and we do not think any other party will be prejudiced by the delay. In our view it is in the interests of all parties that as much value as possible is obtained from the process to date. Whether it is reasonable for us to delay our final decision even further, will be the subject of the hearing.
12. Rather than lose momentum on writing up our conclusions, we have decided that we will continue to draft our thoughts on the dam and associated components with a view to releasing that by early June, along with our reasoning for those conclusions. (we may also outline our preliminary thoughts on the Waimakariri River take regime). Those views will be released as a Minute rather than a final decision.

13. We will reconvene the hearing of the CPWT consent applications and Notices of Requirement at 10 am on May 11 2009 at the Convention Centre in Kilmore Street. Following the resumed hearing we will decide:
- o *Whether we should close the CPWT part of the hearing and proceed to issue a final decision? or*
  - o *Whether we should leave the hearing open so as to receive further evidence from CPWT later in the year?*
14. We have requested CPWT/CPWL to provide the following information in its submissions as to:
- o The two alternatives set out above.
  - o Whether if (as signalled) we recommend that the dam, upper intake and tunnel not be confirmed, and decline associated consents, we could still potentially grant some or all of the consents for the taking and use of water and the distribution network and recommend confirmation of the headrace canal, the lower Waimakariri and Rakaia intakes (if we are satisfied that some or all of those other components are in accordance with purpose and principles of the Act.
  - o Various associated issues.

A copy of our Minute and request for further information has been sent to submitters who have reserved the right. A copy of this summary is available on the ECan web site along with a copy of the Minute from the Central Plains Water Trust commissioners.

Commissioners Milne, Nixon, O' Callaghan and Fenemor

3 April 2009