

**Before**

**The Canterbury Regional  
Council**

**In the Matter**

**Of:**

**Proposed Variation 6 to  
Chapter 4 of the Canterbury  
Natural Resources Regional  
Plan**

Dated 13 April, 2010

**Second Minute of Hearing Panel of Commissioners**

1. This Minute issued to ensure all submitters have knowledge of the outcome of some requests made on 12 April by various submitters seeking an adjournment of the Variation 6 NRRP hearings as to groundwater quality protection for the Christchurch – West Melton Groundwater Allocation Zone. The parties making that request were:

Horticulture New Zealand

Federated Farmers of New Zealand (North Canterbury Province)

(both represented by Helen Atkins, who also expressed that she represented the interests of an interested non-party Irrigation NZ Inc)

And

Memorial Avenue Investments Limited (represented by Lauren Semple.)

2. The request was made so as to enable submitters to address the impacts of the passage by Parliament of the Environment Canterbury (Temporary Commissioners and Improved Water Management) Bill last week, and the emphasis placed within its cl.63 on the "*particular regard*" which ECan must have to the "*vision and principles*" of the Canterbury Water Management Strategy (CWMS) in considering any proposed regional plan. A further concern expressed was that the parties may wish to reconsider the style or content of evidence adduced, given the fact that by virtue of cls. 64 &66 the general right of appeal is removed to the Environment Court, leaving appeals restricted only to appeals to the High Court on a point of law.
3. The start-point to any consideration of a request for an adjournment of an RMA hearing process must always be the provisions of s.21 which enjoin all persons exercising functions under the Act to do so "*as promptly as is reasonable in the circumstances.*"
4. After we heard from Counsel for the submitters, Ms. Margot Perpick, as legal counsel performing one of the s.42A report writers' roles on the Variation, briefly addressed us. In general terms she confirmed our preliminary view that the provisions of s.66 (2)(c)(i) of the Resource Management Act 1991 itself already required that the regional council "*have regard*" to the provisions of the CWMS, it being one of the "*management plans and strategies prepared under other Acts*" to which they section required regard be had.

5. In our view the only significant change brought about as a matter of law by cl.63 as to the CWMS was a specific stressing of the regard which must be had to it by ECan as being "*particular*" regard for its "*vision and principles*". However, we acknowledge that opportunity should be given to submitters to consider whether they wish to call further evidence on that limited issue, or to make legal submissions addressing it.
6. As to the suggestion that the removal of the right of appeal should re-open the hearing, or enable a reconsideration of evidence we do not accept that. Evidence led at this hearing is mainly focussed on the relatively confined scope of the science affecting the quality of the groundwater involved, and the risks to that quality, as well as on the planning judgments as to the treatment of that risk by Variation 6 in a number of respects. We have received significant amounts of evidence addressing those issues principally from expert witnesses. Almost without exception those witnesses have assured us they have prepared their evidence in accordance with the Environment Court Guidelines for expert evidence. Such an assurance carries with it an obligation to comment on any matter relevant to the issues addressed in any such brief of evidence, and as a general matter of proper professional practice that should be expected, regardless of this being a first instance hearing. We are not satisfied, therefore, that any prejudice arises out of the removal of the right of appeal as to the evidence that has been lodged.
7. Accordingly, subject to the terms of the opportunity referred to below, we resolved to proceed with the scheduled hearings which are due to conclude on Thursday 29 April for submitters' presentations. Any final responses we may seek from s.42A report writers will occur on the Friday 30<sup>th</sup> April.
8. However, we do accept that notwithstanding the existence of s.66(2)(c)(i) of the RMA, there should be opportunity to address us on any aspect of the CWMS to which particular regard is required to be had. Therefore, we propose to allow any submitter or further submitter who wishes to produce evidence, or to make submissions about the effect of the CWMS, the opportunity to do so in the week commencing Monday, 3 May at 9 a.m, at a venue to be advised on the ECan webpage relating to the Variation 6 NRRP hearings.
9. Any party intending to avail themselves of that opportunity is required to notify ECan of that fact, and the estimated time required by that party to make that presentation, by the time of the scheduled re-commencement of the hearings on 27 April.
10. This Minute is to be placed on the ECan website for the Variation 6 NRRP hearings so that all submitters are aware of the adjournment requests and their outcome.



R.D.Crosby  
Chairman of Commissioners