

IN THE MATTER OF

the Resource Management Act 1991

IN THE MATTER OF

applications by Central Plains Water Trust to:

Canterbury Regional Council for resource consents to take and use water from the Waimakariri and Rakaia rivers for the Central Plains Water Enhancement Scheme and for associated consents required for the construction and operation of the Central Plains Water Enhancement Scheme; and to

Selwyn District Council for resource consents to construct and operate the Central Plains Water Enhancement Scheme

AND

IN THE MATTER OF

a Notice of Requirement by Central Plains Water Limited to:

Selwyn District Council for the designation of land for works associated with the construction and operation of the Central Plains Water Enhancement Scheme

**Minute 11 of Commissioners
Intended decision and primary conclusions in relation to the revised Central Plains
Water Trust Irrigation Scheme
30 October 2009**

1. INTENDED DECISION

- 1.1** Recently we completed four days of hearings on the reduced and revised Central Plains Water (**CPW**) proposal for an irrigation scheme in the Central Plains area. This scheme no longer involves an upper intake on the Waimakariri River, tunnel or Waianiwaniwa dam. There would continue to be a take from the Rakaia and Waimakariri Rivers, albeit a reduced take in respect to the latter, and the retention of a designated headrace between the two rivers. Otherwise the scheme would remain essentially the same as before.
- 1.2** The purpose of this Minute is to provide certainty to CPW, the Councils, and submitters, so that all parties can begin planning for the final stage of the process. We are conscious that this has been a very lengthy process and parties want to know where we and they are heading.
- 1.3** For reasons which we will briefly summarise in this Minute and will expand upon in our formal decision, we have concluded that the revised proposal is sustainable and that all of the remaining consent applications can be granted and that we should recommend that the remaining parts of the Notice of Requirement (**NoR**) be confirmed. We are satisfied that residual issues can be adequately addressed by conditions of consent and by our recommendations in relation to the NoR
- 1.4** This Minute outlines our conclusions after considering all of the evidence and submissions and taking into account the draft conditions proffered by CPW. We are required by the Resource Management Act to set out our reasons and the evidence we rely on. We still need to finalise the conditions of consent and recommendations on the NoR. Once that is complete we will issue our formal decision along with a record of our reasoning
- 1.5** We will need to hear further submissions in relation to the final details of terms and conditions. After hearing the further evidence at the reconvened hearing of 12-15 October, we have now reached the point where we are confident that we can impose conditions that will adequately avoid, remedy or mitigate adverse effects to the point where the outcome will be sustainable even though the overall potential adverse effects of some components of the scheme may be more than minor.
- 1.6** While we devote our attention to formalising our decision and recording our reasoning, we would like CPW, the officers and relevant submitters to focus their attention on endeavouring, so far as is possible, to prepare a draft set of proposed agreed conditions. There will inevitably be matters which can not be agreed and in respect of which we will need to hear further submissions prior to making a final decision. That process will not occur until early in the new year, however we are of the view that it would be desirable for parties to have certainty as to our direction so that they can pursue these matters of detail within that context. That is why we have issued what is in effect an interim decision.
- 1.7** We had hoped to indicate our conclusions as to the take regime for the Waimakariri and Rakaia rivers in this Minute, but we will need a little more time to consider the further evidence on this topic. We will however advise parties of our conclusion regarding this within the next two weeks. In the interim we are satisfied that one of the Waimakariri take regimes which are now before us, or a slightly modified version of one of those, will be sustainable. In relation to the Waimakariri we still need to assess and weigh the additional mitigating value of the Proposed Plan Change 1 regime, against the costs and practical implications of that regime for the applicant and the economic and “efficiency” implications of that.

1.8 This Minute sets out our conclusions on key issues and statutory considerations. In particular it sets out our conclusions relating to the sustainability of the proposal and its consistency with the purpose and principles of the Resource Management Act. The Minute is not intended to be comprehensive. There are many ancillary issues which we have also considered. Our conclusions on those matters have been taken into account in our overall balancing and, to the extent relevant, will be discussed in our final decision.

2. CONTEXT AND PROCESS

2.1 We commenced hearing these applications on 25 February 2008 and sat for approximately 62 hearing days in 2008. Three of us then heard the associated applications from Ashburton Community Water Trust (**ACWT**) for its Rakaia hydro scheme. We issued a preliminary decision on that application on 28 November 2008. We heard further evidence and submissions on that scheme in April 2008. We granted the relevant consents to ACWT on 28 April 2009 and that decision has not been appealed.

2.2 We then turned our attention back to the Central Plains requirement and applications. We issued Minute 6 on 1 April 2009 indicating that we would be unlikely to be granting consent for the Coalgate dam, Waianiwaniwa reservoir, tunnel and upper Waimakariri intake. CPW requested that we nevertheless hear evidence as to an amended scheme without those components. Some submitters opposed that course. After a one day hearing in May 2009 we agreed to that request for the reasons outlined in Minute 7 issued on 19 May. That Minute outlines why we considered that the removal of the reservoir from the scheme did not mean that the applications and NoR would need to be rejected and re-notified. We do not intend to canvas that issue further in this Minute. We remain of the view that the Applicant was entitled to present its scaled back scheme as it has done.

2.3 In Minute 8 we set out our directions for an independent review of contamination and mounding issues which has now been completed by Bidwell and Norton and presented to us.

2.4 We issued Minute 9 on 7 July which provided our preliminary views on possible Waimakariri take regimes in the event that we grant consent for the CPW take.

2.5 On 10 July we issued Minute 10 which outlined our reasons for rejecting the reservoir and upper intake parts of the scheme. On 21 July CPW announced that it would not be contesting that position and it has since withdrawn the relevant NoR for the upper intake and tunnel and for that part of the primary NoR relating to the dam, reservoir and associated works (5 October). The NoR for the headrace and the Rakaia and lower Waimakariri intakes remains, as does the application for the distribution network.

2.6 CPW presented its amended (reduced) proposal on October 12 and responded to the Bidwell/Norton report. We heard Bidwell and Norton, officers and some submitters over the following three days, along with the Applicant's reply. We also requested some limited further information from the Applicant which we have since received. (We note that this further hearing brings the total hearing time to date to around 70 days).

2.7 At the conclusion of the resumed hearing we indicated that by 30 October we would issue this further Minute which would indicate what our final decision/recommendation will be. We also indicated that if we conclude that we

can grant consent we would set out our current views as to the proposed Waimakariri take regime and would identify key issues relating to conditions which would need to be addressed if we find in favour of the scheme (as we now have).

- 2.8** We made it clear that our reasoning would not be provided until at least December because there is much which still needs to be written up. We also indicated that if we reach a favourable decision, that would most likely be issued as an interim decision or further Minute prior to Christmas. We signalled that we would then need to reconvene to consider the detail of conditions before issuing our final decision.
- 2.9** Given that this Minute is now in effect an interim decision, we have concluded that no purpose would be served by issuing our reasoning as an interim decision this year. We have decided that the more efficient way of proceeding is for us to set out our reasoning in our decision once we have finalised conditions and recommendations. In the meantime we will carry on writing up our reasoning whilst the Applicant, officers and relevant parties discuss consent conditions.
- 2.10** We will need to give further consideration to the form of conditions of consent and recommended conditions and other recommendations in relation to the NoR. At this stage CPW's draft conditions and preliminary proposals from officers and some other parties, for example Christchurch City Council, provide us with confidence that appropriate conditions can be drafted to adequately address all residual issues. However some of the proposals will require further work by the Applicant and officers and further consideration by us.
- 2.11** We did not seek recommended conditions from the Council officers because we thought that it would be inefficient to spend time on matters of detail before we had decided whether we would be finding in favour of the proposal. At this stage we have some comments from officers and some submitters as to the applicant's proposals and possible variations to those draft conditions. We will now need the officer's final views on those matters and will also need to hear from CPW and relevant submitters on proposed conditions. The certainty provided by this Minute will allow the officers and others to finalise their views on conditions.
- 2.12** As discussed above, we will need from CPW and both sets of officers, a draft set of conditions, with any areas of dispute or alternative wording identified (including outcomes of any discussions with relevant submitters about specific conditions). We will then receive written comments from those submitters who have called technical evidence on the issues concerned and from any who have legal counsel representing them. We will then decide whether we need to reconvene the hearing to hear submissions, and if needs be evidence, on any matters of dispute or whether we can resolve those on the papers.
- 2.13** The panel is available from late January for a further brief hearing in relation to conditions. We expect that this would not require more than a day. However, rather than rush this process, we would encourage CPW and the officers of both councils and relevant submitters to endeavour to agree on as much as possible. In practice this interactive process may mean that a resumed hearing would not occur until February, however that is up to the parties. On this timetable we would not expect to issue a final decision until sometime around Easter 2010.
- 2.14** As outlined above, we still need to consider the question of the take regimes for both rivers a little more and will issue our conclusions on that in a separate Minute within two weeks. At the same time we will expand upon our views on the key matters which remain to be addressed in relation to conditions.

3. THE CURRENT CPW PROPOSAL

3.1 As a result of its decision to abandon the Waianiwaniwa reservoir and upper Waimakariri intake, CPW has scaled back its scheme and adjusted how it would work. The principal points of difference are as follows:

- The Waianiwaniwa reservoir, upper intake and linking tunnel have been withdrawn from the scheme;
- The lower Waimakariri intake, and the Rakaia intakes remain as originally proposed;
- The headrace remains as originally proposed both in terms of capacity and location;
- The command area remains as it was (60,000 ha);
- The proposed maximum take from the Waimakariri river has been reduced from 40 cumecs to 25 cumecs;
- In the light of our Minute 9, CPW now proposes 1 to 1 flow sharing of B class water (one cumec of take for each cumec left in the river) as compared to its original proposal of no flow sharing and its later proposal of 5 to 5 flow sharing with the first 5 cumecs of B permit water going to the scheme;
- There will be a reduced demand for Waimakariri river as compared to the original proposal, because that water is no longer required to top up storage in the reservoir (little water will be required outside of the irrigation season however, CPW does not propose a different take regime for the winter);
- We note that the actual demand for water from the Waimakariri river will be less than the take limits proposed by CPW, because water will be taken from the Rakaia rather than the Waimakariri where possible.
- Another change to the Waimakariri take regime relates to an agreement between Ngai Tahu Properties Ltd and CPW whereby NTPL has transferred 1 cumec of its A permit allocation to CPW. This reduces to 24 cumecs the maximum Waimakariri take that CPW seeks under the current application.
- The loss of the reservoir will be compensated for to a limited degree by a combination of on farm storage and use of existing ground water consents at times when insufficient run of river water is available to meet demands. Those farms with existing ground water irrigation supplies will enjoy relatively good reliability. There will however be some farms within the scheme which will not have access to ground water and where overall reliability of supply will be relatively low.
- The net result is a scheme with considerably less reliability than was originally proposed. Ultimately, CPW may seek to add additional storage to the scheme based on Lake Coleridge, aquifer storage or some other options, however that is not relevant to our inquiry.
- The reduced reliability of the amended scheme will have the effect of considerably reducing the extent of additional dairying and other new

highly water intensive activities from what would be the case if the reservoir remained.

- The net result will be reduced economic benefits but also significantly reduced capital costs (no dam, reservoir, tunnel or upper intake);
- There will be less water applied to land with resultant reduction in predicted mounding of ground water and reductions in predicted contaminant loadings; and
- The projected benefits from reduction in reliance on existing ground water consents will not occur, however groundwater aquifers and lowland streams will benefit from increased recharge.

4. PRIMARY REASONS FOR INTENDED DECISION

4.1 The comments which follow provide a summary of our principal conclusions regarding the relevant statutory criteria and key issues. We will be issuing full reasons for our conclusions along with a discussion of the competing evidence, in due course.

4.2 With the removal of the Coalgate dam, Waianiwaniwa reservoir and upper intake from the scheme, some of the more contentious and less sustainable aspects of the proposal have been avoided. There are of course a raft of residual issues including some quite significant (or at contentious) matters remaining. We have considered the evidence on all of these matters and have concluded that none are what could be termed “show stoppers”.

4.3 Adopting the overall balancing approach required by the RMA, we have concluded that subject to appropriate conditions (which we are satisfied can be imposed) the revised project will be sustainable and is not inconsistent with the purpose and principles of the Act or with the objectives and policies of the relevant planning documents. We will now set out a brief summary of our conclusion on the most significant issues. We will first summarise our conclusions in relation to Part 2 of the RMA which is the primary guide to our decision making and the specific statutory criteria applying to NoR. We will then summarise our key conclusions on the most significant potential effects of the scheme, noting that some of those conclusions will be contained in our Part 2 assessment.

5. SECTION 5

5.1 We commence with our primary conclusion, which of necessity relates to the overall sustainability of the proposed scheme. This conclusion is based on our balancing of all of the environmental costs and benefits of the scheme. We have concluded that the revised proposal will promote the *sustainable management of natural and physical resources* in a way which allows people and communities to *provide for their social, economic and cultural wellbeing and for their health and safety* and which will sustain the potential of the resources in question to meet the needs of future generations.

5.2 With the removal of the dam and reservoir from the scheme, we are satisfied that the scheme will not have any significant adverse effects on the social, or cultural wellbeing of people or communities. We have heard much evidence about the degree of economic benefit which will result from the scheme. For current purposes it is sufficient to record our conclusion that the scheme will significantly enhance the economic wellbeing of the region albeit perhaps to a lesser degree

than the original scheme. We will discuss this matter in more detail in our final decision.

- 5.3** The scaled back proposal with the conditions we intend to impose, will safeguard the *life-supporting capacity of water, soil and ecosystems* and will adequately *avoid remedy and mitigate adverse effects* of the proposal on the environment albeit that some adverse effects may be more than minor. We note that it is not a requirement that all adverse effects be reduced to the extent that they are minor nor indeed is it a requirement that the total adverse effects of the scheme be minor. The requirement is that the combined net effect of the scheme be *sustainable*
- 5.4** In terms of *health effects*, we have concluded that with the conditions which we intend to impose, the proposal will not result in any more than a very minor increase in health risks for people or communities. There are unlikely to be any adverse effects on the water quality of Christchurch City bores but there will be an increase in the amount of nitrate-nitrogen reaching shallow groundwaters particularly in the area to the south of Christchurch and east of SH1. We are satisfied that the question of health risk to bottle fed babies from an increase in overall nitrate loading can be avoided. The risk of increased pathogen levels in groundwater and lowland streams will be low.
- 5.5** 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.
- 5.6** In terms of *social impacts*, we have concluded that with the removal of the dam and reservoir and the likely reduction of the dairying component in the scheme, any adverse social impacts will be sustainable in the context of the wider economic and therefore social benefits which will be derived from the productive use of the water to produce more food and more exports.
- 5.7** We accept that there will be some adverse effects on individuals and families, in particular those affected by the headrace, who have not agreed to it being on their land. While we are sympathetic to the effects on these people, we do not consider these effects to be such as should defeat the proposal. To a large extent we consider these matters would be amenable to negotiation and compensation. We also note that the great majority of affected landowners are shareholders and supporters of the scheme.
- 5.8** In terms of *the life supporting capacity of water and ecosystems* we do have some concerns as to the effects of increased nutrient loadings on lowland streams and Te Waihora. However as discussed below we have concluded that with effective mitigation, current adverse effects are likely to increase only to a minor degree. There will also be some offsetting positive effects arising from increased flows to lowland streams, such that the overall adverse effects on aquatic ecosystems will in our view be acceptable, albeit perhaps more than minor.
- 5.9** We note that the original take regime proposed by CPW for the Waimakariri was not in our view sustainable (see our Minute 9) but the reduction in maximum take from 40 cumecs to 25 cumecs and the introduction of 1 to 1 flow sharing (one to the river one to CPW) for the B permit water will significantly mitigate the adverse effects of the take to the extent where the cumulative effects will be acceptable when weighed against the uses and values of the river. We are yet to reach a conclusion as to whether that particular flow regime adequately addresses section 6 and 7 matters. However, for present purposes, we are confident that either the

CPW proposal, or the ECan Plan Change 1 proposal or something in between, will be sustainable.

- 5.10** Ultimately the choice of take regime will come down to a question of whether the additional mitigation which would be provided by a 20 or 30 cumec B permit gap (30 is proposed in Plan Change 1) justifies the significant reduction in reliability for CPW with a consequent reduction in the efficiency and economic benefits of the scheme. We will undertake that balancing over the next two weeks after considering the further evidence which has been provided by ECan officers, Fish and Game and CPW.
- 5.11** Overall, we regard the proposal as consistent with the principles in sections 6, 7 and 8. To the extent that any of those will not be fully achieved we are of the view that the economic and productive benefits of the proposal both for the region and the nation are sufficient to outweigh those matters. We now set out our conclusions in relation to these provisions principles.

6. SECTION 6: MATTERS WHICH WE MUST RECOGNISE AND PROVIDE FOR

- 6.1** Section 6 sets out matters of national importance which we must *recognise and provide for*, subject to the overriding requirement of section 5. Unlike section 7 and 8 which are matters for particular weight, we must not only consider section 6 matters, but must provide for them to the extent that is consistent with sustainable management. They are not absolute requirements but must play a key role in our overall balancing. We now set out our conclusion in relation to each of these matters.
- 6.2** The proposed lower intakes on both rivers will not entirely *preserve the natural character* of the two rivers and their margins, given the scale of the takes and the modified character of the river margins. However, we are satisfied that they are not *inappropriate developments*. We are also of the view that the regional and national benefits which will be derived from use of the water will be such as to override the requirement to provide for absolute preservation of natural character (if there is such a requirement). We are of the view that the impacts of the proposal on natural character will not be significant either in terms of the intakes or the downstream works.
- 6.3** To the extent that the area in the vicinity of the Waimakariri Gorge bridge, may be an *outstanding natural feature* (it is not listed as such in the relevant planning documents) we do not regard the development as inappropriate. The fact that the intake works will be largely out of site from the Bridge and its approaches is a mitigating factor. We do however consider that some further thought needs to be given to whether the intake location should be shifted slightly further upstream from what is currently proposed. This may limit the impacts on the Pinnacles area. There will also need to be appropriate mitigation of landscape impacts and we are confident that can be provided for by way of conditions.
- 6.4** We do not regard the sediment pond, and associated works or the terrace canals as *inappropriate development* in relation to either river.
- 6.5** With the removal of the reservoir from the scheme, we consider that the proposal will not compromise the *protection of any areas of significant indigenous vegetation or significant habitats of indigenous fauna*. There will however need to be a comprehensive ecological survey of areas of potential significance and a terrestrial ecological management plan to address any such effects by way of biodiversity offset or otherwise. We note that the ecological evidence we heard in relation to the ACWT scheme indicated that the ecological values of the northern

terrace and escarpment of the Rakaia was less than the southern side impacted by the ACWT scheme. We do not think that the same level of biodiversity offset is likely to be required on the northern side of that river or on the southern Waimakariri escarpment, however further survey work will be required prior to the Outline Plan being submitted.

- 6.6** We accept that the distribution network will have some effects on ecological values however we do not consider that those effects will be significant and we believe that they can be mitigated or offset to an appropriate degree once the final design is known, an ecological survey has been carried out and a mitigation plan prepared.
- 6.7** So far as changes to farming patterns may affect drainage systems, or reduce shelter belts and other areas of habitat, we note that this is permitted by the District Plan, as is removal of stock races. To the extent that there may be flow-on impacts on indigenous vegetation or indigenous fauna we are of the view that those impacts can be adequately mitigated. There is also scope for ecological offsets. For example there could be areas of plantings created in the corners not reached by irrigators, or alongside streams or irrigation races. All of these matters can be addressed by way of a management plan and the Farm Protocol following final design and appropriate ecological assessments.
- 6.8** We need to give further consideration as to the impacts of the proposed take for significant avi-fauna (bird) species. However we are satisfied that significant adverse effects on bird populations can be avoided (in particular the risks of increased predation during the breeding season).
- 6.9** The proposed *Sustainable Farming Protocol* will in conjunction with conditions and management plans, provide further mitigation of the ecological impacts of the scheme and resultant further intensification of farming activities.
- 6.10** The proposed *Environmental Management Fund* will also offset or mitigate any losses of biodiversity as a result of the scheme. However, in our view the proposed contributions required to the fund do not adequately reflect the scale of the scheme, the value of the water to shareholders, community input into the scheme via Selwyn District and Christchurch City Councils, and the environmental objectives of the Trust. That is a matter for the Trustees to consider, since we cannot require an increase in the proposed levy, however we would like that consideration to be provided to us before we issue our final decision because it may influence the form of conditions we impose.
- 6.11** We will impose conditions to maintain the existing level of *public access* to both rivers.
- 6.12** In our view the scheme will not significantly compromise *the relationship of Maori and their cultures and traditions with either river, waahi tapu, or other taonga* including Te Waihora. Whilst we accept that intensification of land use will increase nitrate loadings in the lake, and in lowland streams, we are of the view that it will not significantly increase the current adverse ecological effects on these waterways beyond the existing impacts and those in train from existing and past farming activity and natural events, including in relation to Te Waihora the significant impacts of the Waihine storm. We nevertheless recognise that the scheme will have impacts on the already degraded mauri of these waterways. There is a limit to the extent that this impact can be mitigated. However, we do not consider this impact to be sufficient to justify declining consent for use or for irrigation. Nor is that envisaged by the relevant planning documents.

- 6.13** We have recognised and respect the views of Ngai Tahu regarding the mixing of waters. We accept that such mixing will impact on the relationship of Ngai Tahu to the water bodies which will potentially receive this mixed water, in particular the Selwyn River system from bywash wetlands. It is not clear to us how this impact could be avoided short of us declining consent for the taking and use of the waters of both rivers. We do not understand there to be the same level of concern regarding mixing of waters in the headrace. The key concern seemed to relate to the Selwyn river and lowland waterways. However we believe that with an operating regime to prevent overflows of mixed waters into other surface water bodies, mixing of surface waters can be minimised.
- 6.14** Adopting an overall balancing approach and giving section 5 due weight ahead of sections 6, 7 and 8, we have concluded that this impact on the relationship of maori to water is not such as to justify us rejecting a scheme which will provide significant economic benefits to the region and nation.
- 6.15** So far as the potential of the scheme to affect waahi tapu or other land based taonga is concerned, an archaeological survey of potential sites will be necessary along with a discovery protocol. There was no evidence that any sites of significance would necessarily be affected. It appears that the only site of potential significance is at the location of the proposed Selwyn siphon. That area at least will require further investigation.
- 6.16** In our view this proposal is not an *inappropriate development* in terms of *historic heritage* and will not cause any significant adverse effects on historic heritage. In particular the route chosen will not compromise the historic heritage buildings and features on the Homebush property, by comparison to other feasible engineering alternatives, provided the vibration impacts of construction works are adequately addressed by way of assessment and management plan as we will require. We do not agree with the NZHPT submission that a full archaeological survey of the entire route is required. The distribution race system also involves substantial earthworks, and along with the headrace canal is in excess of 500 km in length. Sites with known high potential for historic heritage will require survey.

7. SECTION 7 MATTERS WHICH WE MUST HAVE PARTICULAR REGARD TO

- 7.1** Section 7 sets out matters which we must give significant weight to, but which are not to be regarded as threshold requirements.
- 7.2** We have had particular regard to *kaitiakitanga* and have carefully considered the issues raised by Ngai Tahu and have summarised our conclusions on these issues above. In addition to concerns regarding mixing of waters, Kaitiaki have serious concerns regarding the effects of further pollution of Te Waihora. We appreciate those concerns and the desire of Kaitiaki to rehabilitate their much damaged taonga. We too have concerns about the effects of further intensification of land use in the catchment and resulting increase in nutrients to the lake. However, the District and Regional Plans permit such development and we do not think that it would be consistent with sustainable management to limit further irrigation in the Te Waihora catchment unless that would make the situation in the lake significantly worse. In our view, this proposal will not do so. It may make rehabilitation of the lake somewhat harder, but in our view such rehabilitation will never be achieved without some major changes to the operating regime for the lake to better flush it. We do not think that the CPW scheme would greatly affect such initiatives if they come to pass.
- 7.3** We have had particular regard to *the ethic of stewardship*. The Regional Council is (alongside Ngai Tahu) the principal steward of the water resource. That role has

been influential in our views as to the proposed take regime for the Waimakariri and will continue to influence our final decision on that topic. In short, both rivers are resources for the benefit of the whole community and future generations. Both rivers are part of the "commons" of Canterbury. They both provide significant amenity and ecological values which we, representing the Regional Council, must protect.

- 7.4 The Regional Council is also steward for the groundwater resource and lowland streams and Te Waihora. We have been mindful of that and will address the question of potential contamination in some detail in our final decision.
- 7.5 The proposal will not *maintain amenity values* of the Waimakariri river at their current level. However, we do not see this as an absolute requirement. The proposal will not in our view have significant adverse effects on such values. Without having finally decided on the details of the take regime, we have concluded that whilst the proposed take from the Waimakariri river will slightly reduce the fishing amenity values of the river, those relatively minor impacts are sustainable when considered in the context of the benefits which will derive from the productive use of the water from the river. We are satisfied that the applicant's proposed take regime will largely avoid adverse effects on boating amenity.
- 7.6 The requirement to *have particular regard to maintaining and enhancing amenity values* and the *quality of the environment* are not standards which must be achieved at all costs. If they were, there would be little development of infrastructure. We also remind ourselves that whilst the Waimakariri river is, in our view of national importance in terms of salmon angling, jet boating and of regional importance in terms of race kayaking, it is not subject to a Water Conservation Order. We are not required to *protect* these values from all impacts.
- 7.7 This is important in the context of the take regime. Whilst the flow regime proposed in Plan Change 1 to the Waimakariri Regional Plan (**WRRP**) may achieve slightly better environmental outcomes than the take regime now proposed by the Applicant, it would also significantly reduce the availability and reliability of water to the Applicant, at least arguably to the point where irrigation scheme would not be viable. We recognise that existing allocations from the river, which are not subject to any flow sharing regime, have already changed the amenity and environmental quality attributes, and we must consider cumulative effects of the take regime. Over the next few weeks we will decide whether the Applicant's now substantially modified take regime would achieve the purpose of the Act and would adequately avoid, remedy or mitigate adverse effects, or whether more is required.
- 7.8 At first sight it appears that the Applicant's proposal will have a slightly greater impact on potential fishable area and on bird nesting than would the Plan Change 1 regime. As outlined above, we have not yet reached a conclusion as to whether the cumulative effects on these two values of the Applicant's proposed take regime would be sustainable. We will do so over the next two weeks and will issue a further Minute summarising our conclusions.
- 7.9 We have concluded that the applicant's proposed take regime will not have any more than minor adverse effects on the *habitat of trout and salmon* in the Waimakariri or the Rakaia, and its proposed use of water will have some positive effects for the habitat of trout in the Selwyn river and lowland streams as a result of increased flows.

- 7.10 We have concluded that the proposal represents an *efficient use of natural and physical resources*. We note, however that we have not yet concluded that the applicant's proposed taking of water from the rivers during winter, in the absence of a need to do so, would be efficient, but that is a matter for later determination in the context of conditions.
- 7.11 We have had particular regard to the *intrinsic value of ecosystems* in terms of aquatic and terrestrial systems. We will discuss our conclusions on the take regimes, lowland streams and Te Waihora in more detail in our final decision.
- 7.12 We have considered the *finite characteristics of the natural and physical resources* in question and are satisfied that the scheme will not compromise these characteristics. We have had particular regard to the potential impacts of the scheme on ground water quality and the extent to which such effects may be cumulative and irreversible. However we are satisfied that the scheme will not cause any significant irreversible adverse effects on this resource.
- 7.13 We have, as best we can, had regard to *the effects of climate change*. These effects are relevant to the benefits of the scheme which may increase if droughts become more common. They are also relevant to the effect of the scheme on mounding and nitrates and have been considered in that context.

8. SECTION 8

- 8.1 We have taken into account the *principles of the Treaty of Waitangi*. We do not see this proposal as being at odds with those principles.

9. THE ADDITIONAL ASSESSMENT CRITERIA APPLYING TO THE NOTICE OF REQUIREMENT

- 9.1 Section 171 sets out some additional matters which we must *have particular regard to* in making our recommendation on the NoR. These matters are however subject to Part 2 of the Act which we have already discussed. Section 171 is now only relevant to the headrace and the intakes and associated works.
- 9.2 We are satisfied that these works are all *... "reasonably necessary for achieving the objectives of the Requiring Authority for which the designation is sought."* We will set out our reasoning in our final decision.
- 9.3 We are of the view that the designated works are unlikely of themselves to have significant adverse effects on the environment, or in the alternative that any residual effects which cannot be addressed by conditions will not be sustainable in the context of the benefits provided by the scheme.
- 9.4 We accept that the headrace works will have significant adverse effects on some land owners who have not agreed to such effects, but we are of the view that these effects can be adequately addressed by compensation and design. In contrast to our conclusions on the reservoir, we do not consider the overall impact of the headrace on private land owners to be unsustainable.
- 9.5 We are satisfied that the Requiring Authority has given adequate consideration to alternative sites routes and methods for undertaking the work. We include in this, its recent consideration of alternatives to the reservoir and upper intake and its further consideration of alternative locations for the lower intake.
- 9.6 We doubt that CPW was required to reconsider the headrace location as a result of the removal of the reservoir. However to the extent that this was required we

are satisfied that moving the whole headrace to a lower contour would have significant consequences for the economics of the scheme and would simply shift adverse effects from one group of landowners to another.

10. ASSESSMENT AGAINST POLICY STATEMENT AND PLAN PROVISIONS

10.1 We have had *particular regard* to the relevant planning documents and do not consider the proposed designation to be significantly at odds with the relevant provisions.

10.2 We have also had regard to the relevant planning documents in relation to the consent applications and will include an assessment of both the NoR and consents against relevant provisions in our final decision. We will address the Waimakariri Regional Plan and Plan Change 1 to that in our next Minute.

11. SPECIFIC ISSUES

11.1 We have already set out our key conclusions in previous Minutes and above. We will now briefly discuss some of the key issues and potential effects.

12. WAIMAKARIRI TAKE

12.1 We have discussed the potential impacts of the proposed take from the Waimakariri river, in some detail in Minute 9. Following that Minute and its decision in relation to the dam and reservoir, CPW has amended its river take proposal from a maximum take of 40 cumecs to a maximum of 25 cumecs. It also now proposed 1:1 flow sharing of the B class water, which was not part of its original mitigation proposal.

12.2 The Regional Council has recently notified proposed Plan Change 1 to the Waimakariri river. This introduces a proposed 30 cumec gap between the first new B permit take and the existing A permit and one B permit take. ECan officers have recommended that this proposal be applied to CPW. The Department of Conservation and Fish and Game also favour that management regime over the CPW proposal

12.3 The 30 cumec gap regime has some advantages for instream values over the CPW proposal, in particular nesting birds and fishing amenity. We have yet to decide whether those advantages warrant the economic consequences to CPW and the regional economy of this regime. We will outline our conclusion in a further Minute in two weeks time.

13. WAIMAKARIRI INTAKE

13.1 We are satisfied that the proposed condition relating to expert certification of the safety of the final design for kayakers will adequately address this issue.

13.2 The applicant has assessed the impacts of various adjustments to the intake location on landscape values and in particular the visibility of the intake and associated works. We are satisfied that the natural character of the river at this location will not be significantly compromised. However, before we make our final recommendation, we would like CPW to consider and outline the advantages and disadvantages of moving the intake slightly upstream to near the upper limit of the NoR. It seems to us that this may further mitigate the effects of the proposal on natural character and visual impact from on the river. We will need to weigh that advantage against the increased instream channel maintenance works which would be required.

13.3 We are satisfied that the effects of the sediment pond, terrace canal intake and associated works downstream of the Gorge bridge will not have significant adverse effects on natural character landscape values or recreational amenity.

14. WAIMAKARIRI TERRACE CANAL

14.1 The terrace or escarpment canal will have some adverse effects on landscape and natural character values and terrestrial ecology but we are of the view that those effects (after mitigation) will be sustainable. Landscape and terrestrial ecology management plans will be required.

14.2 As the terrace canal emerges it will have significant effects on the Bull property, however such effects are unavoidable. We would encourage CPW to carry on discussions with the Bulls with a view to mitigating these effects so far as is possible and providing adequate compensation.

15. HEADRACE ISSUES

15.1 We will discuss the impacts of the headrace in more detail in our final decision. We are satisfied that the headrace will not have any significant adverse effects on landscape values, heritage values or terrestrial ecology.

15.2 The owners of most of the affected properties are shareholders and have not submitted in opposition. There are however some landowners who have not agreed to the headrace location and who have valid concerns regarding the impacts of the headrace on their farming operations and the amenities provided by their properties.

15.3 We appreciate these concerns and have some empathy with the submitters in question. However, we have concluded that these effects whilst significant to the people concerned, are not significant within the overall context of a scheme of this magnitude. With any linear project such as this which involves large areas of private land, there will inevitably be adverse effects on some land owners/occupiers. To a large degree these effects are issues to be addressed by way of compensation and final design.

15.4 In our Minute regarding the dam and reservoir we did accept that social and perhaps economic impacts on individuals and the community were effects which we must consider. In the case of the dam and reservoir we found those summed effects to be unsustainable. In the context of the headrace we do not consider the residual effects on relatively few individuals to be unsustainable.

15.5 There are some matters of detail in relation to individual properties which will need to be addressed in the conditions on the designation.

15.6 The headrace will have significant impacts on some directly affected landowners, e.g. Bull Family Trust, Westacre Farms, the various Deans properties, Cynthia McKenzie and Bennelong Park, and some impact on adjoining landowners (such as Ms de Jong). However again, adopting an overall balancing approach, we have concluded that such effects are sustainable when the overall benefits to the command area as a whole are taken into account.

16. THE RAKAIA TAKE

16.1 We are satisfied that the proposed taking of water from the Rakaia within the constraints of the Water Conservation Order will be sustainable and will not be contrary to that Order.

16.2 Most of the impact of the proposed take has already been considered in our decision in relation to the ACWT hydro scheme. The CPW will have some additional impacts. We have not yet finalised our views as to the proposed take regime for the Rakaia but will do so in the next 2 weeks. If we have any residual concerns those can be addressed when we consider conditions.

17. RAKAIA INTAKE WORKS AND TERRACE CANAL

17.1 We are satisfied that the effects of these works on the natural character and landscape values of the Rakaia river will be sustainable albeit more than minor. Landscape and terrestrial ecology plans will be required.

17.2 We note in this regard that the landscape and natural character impacts will be similar to those of the ACWT scheme. The impacts of these works on terrestrial ecology and significant indigenous vegetation will be less than for the ACWT scheme since there is less vegetation of significance on this side of the river. Further ecological survey work will however be required along with a plan for mitigating and/or offsetting any adverse effects (the same applies to the Waimakariri terrace canal).

17.3 Adequate provision will need to be made to maintain existing public access to the river bed for fishing and other activities. This is a matter for conditions and we will come back to this point in our final decision.

18. IMPACTS OF THE INTAKES ON FISH

18.1 We are confident that issues relating to fish screens and fish bypasses on both rivers can be addressed by way of conditions as they have been in relation to the ACWT scheme. We have not yet finalised our views on this.

19. DISTRIBUTION NETWORK

19.1 CPW has not sought to designate the distribution network and will accordingly need to negotiate with individual landowners and the District Council over issues such as access for farming operations and access to road reserve.

19.2 We are confident that this process along with conditions of consent will adequately avoid remedy or mitigate any adverse effects.

19.3 Whilst there would be some advantage in piping the network or parts of it, that would be an expensive exercise. Furthermore there would be some disadvantages in doing so in terms of loss of recharge to groundwater with consequential reduction in the dilution of contaminants. This is a matter which we will need to give more thought to in the context of conditions.

19.4 The distribution network and headrace will have some effects on terrestrial ecology. Further survey work will be required along with an ecological management plan. These are matters for conditions of consent.

20. USE OF WATER

- 20.1** We have concluded that the proposed use of water is sustainable and efficient and will bring significant economic benefits to the district and region. We recognise the importance of the use of water for food production in a food short world. It is not for us to decide what form of intensification of land use is appropriate. Farming is a permitted activity.
- 20.2** We have concluded that the consequential effects of the use of water in terms of the ecology of lowland streams and Te Waihora are within our jurisdiction. We have recorded our key conclusions on those indirect effects in our discussion of Part 2 matters and will come back to them in more detail in our final decision.
- 20.3** We record that we have found the Norton and Bidwell report particularly useful. Whilst that report did suggest that more work was required it did not reach a conclusion that the scheme would have unacceptable effects. We have decided that we do now have sufficient information before us on this matter to make our decision.

21. PUBLIC HEALTH

- 21.1** As recorded above, we have concluded that the scheme with the conditions we intend to include, will not pose any significant risk to public health or safety and will not have any adverse effect on health outcomes.
- 21.2** We do not accept the views of the Canterbury District Health Board (as expressed by the Medical Officer of Health Dr Humphrey) that the scheme will increase health risk to bottle fed infants in the rural areas. We find the existing level of risk to be very low and are satisfied that conditions can be imposed which will ensure that the risk does not increase. The evidence suggests that the increased intensity of farming as a result of the scheme will increase the number of drinking water bores with nitrate-nitrogen levels over the Maximum Acceptable Value (MAV) of 11.3 g/m³ at which there is deemed to be some risk to bottle fed babies, although we suspect that the risk at MAV is relatively low. However, the risk to infants can be avoided by requiring CPW to replace drinking water supplies to any downstream bores which do not approach or exceed MAV immediately prior to the scheme, but do so in the future. The evidence (which now appears to be accepted by the DHB) is that there is little if any risk of contamination of urban Christchurch City drinking water bores.
- 21.3** We also note that the DHB supports the Canterbury Strategic Water Study, which encourages further intensification of farming by way of irrigation. The evidence we heard was that any intensification of farming is likely to result in an increase in total nitrate loadings and resulting effects on groundwater.
- 21.4** We do not accept the surprising submission from the DHB, that the scheme will have adverse health outcomes for those in the community who would not benefit directly or indirectly from the proposal. The argument was that health outcomes are associated with relative socio-economic status and because the scheme will make some people better off, others will be relatively worse off in socio-economic terms. Firstly, we note that the same can be said of most development and we find it strange that the DHB sees it as part of its role to in effect oppose development unless benefits are evenly distributed to the community. Secondly, it is not our role to determine land use patterns. (Farming and irrigation are both permitted activities). Thirdly and most importantly, we had no expert evidence to support this proposition. Indeed we think that the converse might be true. The scheme will bring economic benefits to the region and the nation which will to some degree flow down to the wider community, so it seems to us that if

anything, the scheme will improve the socio-economic status of Canterbury residents and potentially their health outcomes.

- 21.5** We have not heard any expert evidence which would support the DHB submission. Although Dr Humphreys cited work by Dr Peter Crampton as establishing the link between socio-economic status and health outcomes (a relationship which we accept) we rather doubt that this work supports Dr Humphrey's wider assertion on this matter. In any event, the study in question was not put before us and Dr Crampton was not called by the DHB. We put little weight on the "Health Impact Assessment" carried out by the DHB since that was not objectively based.

22. NUTRIENT EFFECTS ON LOWLAND STREAMS

- 22.1** The use of water for irrigation will enable intensification of farming which will in turn increase contaminant loads to groundwater lowland streams and Te Waihora. The evidence before us, was that no matter how good the management practices there will be an increase in nutrient loadings to water bodies. In other words, increased nutrient loading is an inevitable consequence of intensification of farming practices. This indirect impact of the scheme (and all other irrigation) was a matter of significant concern to us and to many submitters and no doubt others.

- 22.2** CPW has also spent considerable resources assessing the likely increase in contaminant loadings and potential ecological and health impacts. We have also heard from ECan experts and others on the subject. We nevertheless decided earlier this year, to require a further independent report which has now been prepared and presented by Messrs Bidwell and Norton. Although that report concluded that more work should be carried out on assessing the impacts of increase nutrient loadings it did not conclude that there would necessarily be any significant adverse effects from such increases.

- 22.3** Based on that report and the further evidence on behalf of CPW, we are satisfied that the overall adverse effects of this increased loading will not be significant. We have discussed this matter earlier in relation to Part 2 of the RMA. It is an issue which we will address in rather more detail in our final decision.

- 22.4** We also note that the Selwyn District Plan does not limit irrigation or the intensification of farming in the Te Waihora catchment and the Proposed Natural Resources Regional Plan does not directly limit farming or discharges to land from farming.

- 22.5** We do see significant potential for mitigation of nutrient losses through best management practices required under the Sustainable Farming Protocol and Farm Management Plans. We also recommend that a priority for the Environmental Management Fund should be riparian planting and fencing along lowland streams (outside the CPW area) for mitigating local effects on water quality. These measures will in our view go some way to addressing the combined effects of this proposal and existing farming on the health and mauri of these waterways.

23. NUTRIENT EFFECTS ON TE WAIHORA

- 23.1** Similarly, in relation to indirect impacts on Te Waihora, we have set out our key conclusions earlier and will provide our reasoning in due course.

24. EFFECTS OF GROUND WATER MOUNDING ON LOWLAND FARMERS AND SELWYN DISTRICT INFRASTRUCTURE

- 24.1** Rises in the groundwater table were predicted by the Aqualinc modelling as a result of CPW's irrigation proposals. The predicted mounding was lower under the revised scheme proposal than the original. We consider the projected high water tables are likely to be conservative (ie greater than what is likely to occur in practice) because of the uncertainties around the modelling. We agree this mounding is likely to exacerbate drainage problems in parts of the lower plains. We also note that increased groundwater levels will have beneficial effects on the flows and ecology of lowland streams.
- 24.2** We are satisfied that the adverse effects of mounding can be managed. However we are not satisfied that the current proposal by CPW to address this issue goes far enough. In short, there needs to be a mechanism to ensure that lowland farmers and the Selwyn District Councils face no additional costs or loss of production as a result of the operation of the CPW scheme. That mechanism will also need to ensure that there is a rapid and low cost dispute resolution scheme which does not put the onus on affected persons to establish that the CPW is the cause of any problems which may eventuate.
- 24.3** The consultative mechanism proposed by CPW for resolving drainage issues attributable to CPW will need to be developed further in conditions, particularly to avoid lengthy debates about whether CPW or other factors caused the problem.

25. EFFECTS OF GROUNDWATER MOUNDING ON GRAVEL EXTRACTION OPERATIONS

- 25.1** Gravel extractors west of Christchurch sought mitigation or compensation for the effects of rises in the water table which could limit gravel able to be extracted from currently consented pits. There will be an impact on the extractors which will need to be managed through conditions, although we were not convinced that the scale of the effect is as large as the extractors portray. By the time the CPW scheme is fully operational and water table rises are occurring, some of the existing gravel resource will have already been removed, and these pits will not be affected by the scheme. In passing we note that we do not see the issue of non derogation of grant as being relevant in this context. Our focus has been on the economic impact of the mounding which may occur.
- 25.2** We are satisfied that this is a matter which can be addressed by way of conditions and/or side agreements. It is not a matter which requires consents for the scheme to be declined, but it is a matter which we will need to further consider when finalising conditions. We encourage CPW and the gravel extractors to endeavour to reach agreement on how this issue will be addressed.

26. SOCIAL IMPACTS

- 26.1** We concluded that the scheme in its original form would have significant adverse effects on the people and communities in the vicinity of the dam and reservoir. Those effects will now be avoided.
- 26.2** The headrace will still have a significant effect on a very small number of people. While we appreciate their concerns, we have concluded that in the context of the total scheme those effects are sustainable and can to a large degree be addressed by compensation and conditions.

26.3 We heard much about the perceived social impacts of intensive farming and in particular dairying. The District and Regional Plans do not restrict such intensification and the Canterbury Strategic Water Study is encouraging of further intensification provided that it is sustainable. We have concluded that the scaled down CPW proposal is sustainable. It is not our role to decide on the form of farming carried out within the CPW command area, however to the extent that it is relevant we have concluded that the change in farming patterns as a result of this scheme and other irrigation will not result in significant adverse social impacts and will result in significant economic benefits.

26.4 We also note that the extent of new dairying that is now predicted as a result of the scheme is quite minor and indeed probably less than would occur under the Synlait irrigation proposals.

27. DIRECTIONS FOR APPLICANT, COUNCILS AND RELEVANT SUBMITTERS

27.1 It is up to the CPW and the officers to agree upon a process whereby we will be presented with a final draft set of conditions as soon as is practicable in the new year. The officer's recommendations in relation to particular conditions should also be annotated into that document.

27.2 Where relevant, submitters will of course be given an opportunity to comment on the draft conditions. For example Fish and Game will need to have input into fish screen conditions and the lowland farmers, gravel extractors and Selwyn District Council will need to be heard in relation to mounding issues. We encourage CPW to discuss conditions with officers and relevant submitters with a view to narrowing any matters of dispute over conditions.

27.3 Where dispute remains we will have to make a decision. We may be able to resolve some matters on the papers but it is likely that the hearing will need to be resumed to deal with some residual matters. Our preference would be to do that during February however if it is practical to reach that point earlier we will endeavour to accommodate that.

27.4 We have given some thought to the issues which will need to be addressed and record some of those below. We are likely to issue a further minute in a few weeks, expanding on some of these points in order to provide assistance to the parties.

27.5 At this stage, the issues regarding conditions and other mitigation measure which we have identified include the following:

- *Sustainable Farming Protocol and Farm Management Plans*: Updated draft protocol and farm management plan template to be submitted to the panel when consent conditions are submitted. Both are to refer to all relevant Best Management Practices (BMPs) including those which minimise losses to water of nitrogen and phosphorus particularly, for example, through review of the BMPs cited in the Norton & Bidwell report, and those which maximise efficient use of irrigation water.
- *Environmental Management Fund*: CPW to identify draft priorities for this fund and submit to the panel when consent conditions are submitted. We expect one of these priorities would be riparian management for lowland stream water quality. We would also like CPW to consider increasing the intended levy to better reflect the objectives of the Trust and the benefits to the shareholders.
- *Technical Review Panels*: CPW to flesh out the Terms of Reference and indicative membership for the External Expert Review Panel (drainage panel),

drinking water wells/gravel extractors etc dispute resolution as necessary, and other technical dispute resolution mechanisms proposed during the hearing

- *Lower Waimakariri Intake*: Specific location of water intake and tunnel transect to be identified, and proposals drafted for consultation mechanisms for design and operation of the intake to ensure boater safety, fish screen design and any other issues.
- *Headrace and Distribution Channel Routing*: CPW now have an opportunity to negotiate on major routing and design issues for intakes, headrace, water distribution system and related issues such as crossings, access, co-operation with stockwater races, and bywash design which avoids mixing of surface waters.
- *Management Plans*: CPW have an opportunity to refine draft management plans including specifically consent conditions and draft plans addressing archaeological protocols, terrestrial ecology, earthworks etc. We note that Christchurch City Council has made some helpful suggestions regarding management plan conditions. We also note that there are some recent examples of ECan consents which have made extensive use of management plan conditions in the context of stormwater disposal, sediment control and the like.
- *Waimakariri and Rakaia take conditions*. Once we have issued Minute 12 which will set out our conclusions regarding the take regimes for these rivers, CPW, and ECan officers will need to finalise a set of conditions which reflects that conclusion and which meets the practical management requirements of both the Council and ECan. In relation to the Rakaia take the conditions will need to harmonise with other relevant consents and with any agreements which have been reached with other consent holders. If there are still outstanding priority issues these will need to be addressed in conditions, as was the case in relation to the ACWT consents.
- *Specific conditions*: There are a various other matters which we have alluded to during the course of the hearing which will need to be addressed. By way of example the potential for vibration damage in relation to Homebush heritage buildings and any other structures which might be affected by major earthworks will need to be assessed. If necessary there will need to be a vibration management strategy as part of the construction management plan.

27.6 We assume that CPW and officers have taken a note of these issues as they have arisen. Over the next few weeks we will endeavour to identify (in yet another Minute!) any other specific issues that will need to be addressed either by conditions, side agreements or adjustments to the final design. We will also comment on what we expect of management plan conditions. We will address the issues raised regarding overly flexible or open ended conditions.

28. CONCLUSION

28.1 We have concluded that the relevant consents can be granted and that we will be able to recommend the designation be confirmed, once conditions and other mitigation measures have been finalised to our satisfaction.

28.2 We are satisfied that with the substantial modifications which have been made to the proposal and with the mitigation measures in place, the scheme will be sustainable and in accord with the principles of the Resource Management Act.

28.3 Whilst it is not a matter we can give any significant weight to, we also consider that the amended proposal is broadly consistent with the Canterbury Strategic Water Study.

- 28.4** We have not yet reached a conclusion as to the take regime for the Waimakariri and Rakaia rivers but will do so by 16 November. We are however confident that our primary conclusions will not change as a result of that further deliberation.
- 28.5** We appreciate that some submitters will not welcome this decision, however we are unanimous in our conclusion that the proposal is now sustainable. While it will result in some adverse effects on the environment we do not regard any of those on their own, or the total effects of the scheme to be unsustainable.
- 28.6** We have endeavoured as best we can to approach all issues objectively and thoroughly. We make no apologies for what has been (and continues to be) an exhaustive process. Some might criticise our "inquisitorial" approach, but we believe with a scheme of this magnitude and with evidence of such complexity the approach was appropriate and necessary.
- 28.7** Some might have concerns at the latitude we have given to CPW to adjust its scheme and its mitigation proposals during the hearing. In our view with a scheme of this size and complexity a degree of flexibility needs to be accorded to the proponent. In the present case there is no doubt in our mind that the resulting scheme is rather more sustainable than the original proposal. Having said that, we are in no way critical of CPW or its consultants for having commenced with a broader vision. Often it is not until submitters are heard that potential effects are fully understood.
- 28.8** This process is not yet over, however it is an appropriate time to thank all who have participated for their constructive and good mannered approach to often contentious and sometimes emotive issues. We are well aware of the emotional stress this proposal has caused for some and we are also aware of the huge time commitments which have been made by many submitters. We are also grateful to the applicant's Counsel and consultants for the manner in which they have conducted themselves. We are appreciative of the significant pressures this process has put on those most closely involved.
- 28.9** We look forward to issuing a final decision in the new year.

30 October 2009

Philip Milne (chair)

A handwritten signature in black ink, appearing to read 'Philip Milne', with a long horizontal flourish extending to the right.

Bob Nixon

A handwritten signature in black ink, appearing to read 'Bob Nixon', with a long horizontal flourish extending to the right.

Andrew Fenemor

A handwritten signature in black ink, appearing to read 'Andrew Fenemor', with a long horizontal flourish extending to the right.

Ray O'Callaghan

A handwritten signature in blue ink, appearing to read 'Ray O'Callaghan', with a long horizontal flourish extending to the right.