

CHRISTCURCH CITY COUNCIL DEPUTATION

TO: The Mayor and Councillors of the Christchurch City Council (“Council”)

FROM: Rosalie Snoyink, spokesperson for the Malvern Hills Protection Society (“the Society”)

[1] This Deputation has been prepared for your consideration in anticipation of the Society being granted speaking rights at the meeting of Council scheduled for Wednesday 7 November 2007.

[2] The Society’s communications adviser, David Lynch is assisting me with this Deputation and our legal counsel; Michael E Parker will elaborate on Society’s concerns at the conclusion of my address.

[3] This Deputation is to support the Society’s continued concern regarding reported loan and security arrangements between Central Plains Water Limited (“CPWL”) and certain lenders who it understands to be Dairy Holdings Limited, Willsden Farm Limited and Clovernook Farm Limited.

[4] The Society is seeking to raise what it considers are serious issues with respect to this Council’s involvement in the Central Plains Water Trust (“CPWT”) as one of two settlors (the other being Selwyn District Council).

[5] These issues concern what the Society understands to be the Council’s **statutory and legal obligations apparently not being met** in respect of:

❖ **Objectives of the CPWT deed;**

❖ **Memorandum of Agreement 2004 between CPWT and CPWL;**

- ❖ **Conditions approved for the third party loan as recorded in the Council minutes for the meetings June 5-7 2007;**
- ❖ **Ratepayer expectation relating to Council stated aims and objectives promoted when the CPWT was established.**

[6] Mr Parker will elaborate on these in his address.

[7] On the 4th October 2007 the Society attended the weekly meeting of this Council.

Cr Norm Withers asked the following question regarding CPW.

"If through the Environment Court process approval is given to the project, could a third party such as Dairy Holdings have access to water take before the Central Plains operation is established and operating?"

To which Mayor Garry Moore answered in one word, "Yes".

[8] Since this condition of the third party loan was confirmed publicly, it is the Society's understanding that Dairy Holdings will have access to the Rakaia water entitlement, assuming CPW's resource consents are approved following the February 2008 hearing.

[9] The Society also understands that the CPW scheme may not be built for 10 years during which time Dairy Holdings will have exclusive use of the CPW Rakaia river water entitlement.

[10] The Society finds this very disturbing and questions how a community promoted irrigation scheme, established by this Council and Selwyn District Council through a Trust, being charitable under the Charitable Trusts Act 1957, is able to enter into such an extraordinary arrangement.

[11] The confirmation from the 4th October Council meeting underpins the Society's concern that the CPW resource consents (if approved) will

result in the water take from the Rakaia river being offered as security for the third party loan to Dairy Holdings.

- [12] The Society's previous efforts to raise its concerns and seek clarification regarding CPW's resource consents being used as loan security drew the following response from Peter Mitchell, General Manager Regulation and Democracy Services.
- [13] In a Council media statement 20 July 2007, "*Resource consents will be owned by community*" Mr Mitchell said, "***The resource consents are not available to any lender as part of the security offered by Central Plains Water Limited***".
- [14] The Society submits that such a statement defies rational logic as it is the benefit that ensues or entitlement that is the value of the resource consents, not the piece of paper that it is written on. To maintain otherwise it would not be unreasonable for someone to claim this argument could be perceived to be misleading.
- [15] Further, the Society would suggest Mr Mitchell's statement requires some clarification, particularly given the response Cr Withers received to his question at the 4th October Council meeting.
- [16] The Society must also remind this Council of its obligations that when it approved the Loan Agreement allowing CPWL to borrow funds from Dairy Holdings, it did so with a clear instruction to staff that the terms of the Loan Agreement must comply with the objectives of CPWT's Trust Deed. (Council minutes 5 -7 June 2007, CPW Third Party Loan)
- [17] Understandably, the Society believes there is sound justification for its concerns that objectives of CPWT's Trust Deed will not be met as a consequence of the conditions surrounding the third party loan from Dairy Holdings.

[18] In conclusion, if this Council is receptive to what the Society asserts is a serious matter, then the Society respectfully requests that this Council undertakes the following course of action:

- (a) The Council investigates under urgency, the concerns raised by the Society in this Deputation;
- (b) The Council in undertaking such an investigation, involves the Society and its advisers;
- (c) The Council as a settlor of the CPWT, in consultation with Selwyn District Council, The Auditor General, Ecan and any other party considers under urgency point (d) below.
- (d) CPWT and CPWL be requested to consider deferring the February 2008 resource consents hearing to allow for an investigation to proceed.

[19] The Society wishes to point out that independent of its request for this Council to investigate its concerns, it will be pursuing other avenues with respect to the matters raised in this Deputation.

[20] I will now ask Michael E Parker the Society's legal counsel to elaborate on Society's concerns.

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