

2. PROPOSED NEW STRUCTURES: CENTRAL PLAINS WATER ENHANCEMENT JOINT STEERING COMMITTEE

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The purpose of this report is to review the recent work of the Central Plains Joint Special Committee in assessing its direction and structure and to bring to the Council the Steering Committee's recommendations on a new structure to take the project forward. It also seeks approval in principle of the documents (Memorandum of Understanding and Trust Deed) that will establish the new structure. Mr Doug Marsh, Chairman of the Steering Committee, and Messrs Mark Russell and Willie Palmer of Buddle Findlay were in attendance at the meeting and spoke to the report and answered Councillors' questions.

STEERING COMMITTEE REVIEW OF DIRECTION AND STRUCTURE

INTRODUCTION

Following presentation of feasibility studies in February 2002 and the referral by this Council of the question of further funding to the Canterbury Development Corporation, the Central Plains Steering Committee has taken the opportunity to review its work to date and determine the most appropriate structures to progress the work and eventually implement the scheme.

FUNDING

Funding has been secured for the work required to complete all the outstanding feasibility and communication work (Phase I) to bring project preparation to the point where the balance of resource consents can be applied for. This has been made up of \$530,000 for 2002/03 from Selwyn District Council, \$625,000 from the Canterbury Development Corporation's Canterbury Economic Development Fund, (subject to a number of conditions) and \$250,000 from a farmer representation group - The Ritso Society. It is expected that this phase will take about a year to complete.

However, it is estimated that to complete the process of securing the resource consents (Phase II), an exercise that will require a further two years, additional funds of \$1.90 million will be required and the challenge of securing this in the light of some reluctance by the parent Councils to continue in this role, is one reason why the Steering Committee is recommending the new structures.

RATIONALE FOR CHANGE

Additional to the above, the review highlighted other reasons supporting a changed governance structure. There is a commonly held view that as planning firms up towards one particular consentable scheme, management of the process of consenting and implementation should move to reflect the interests that will benefit from the project.

Again, as the pressure mounts for funding support from landowners and other interests likely to benefit directly from the scheme, structures are required that can give recognition to those contributions in the sense of both representation and securing equity in a future venture, should it proceed.

Another widely-held view that suggests a move to a different structure is the conviction that the resource consents obtained to take and use water should be owned by an entity that would ensure the interests of the community were paramount in the way the consents were exercised. A trust in which the two Councils together had a controlling interest is seen as the appropriate vehicle to ensure this.

The review also revealed a desire to see a management structure where membership was largely chosen to meet a set of predetermined competencies. The concept was one where Board members would together make the governance decisions but also be prepared to take responsibility for aspects of the Board's works based on their particular competency.

RECOMMENDED STRUCTURES

The Steering Committee has concluded that a trust established by the two Councils is the best vehicle to take the project through Phases I and II to the point where resource consents were obtained. This trust would continue in existence to own and make available the consents and would also take up other roles associated with promoting positive environmental outcomes as the scheme is implemented. A company will be established to actually construct the scheme and while its activity level will only gather momentum once consents are obtained there may be reasons for earlier establishment as a vehicle for accepting financial contributions that secure an ongoing interest in the scheme.

A draft Memorandum of Understanding (MOU) and Trust Deed have been prepared by Buddle Findlay, setting out the joint agreement of the two Councils as they move to establish the trust. Buddle Findlay representatives will be in attendance at this meeting to provide any clarification on these documents if required. The documents have been separately circulated to Councillors.

MEMORANDUM OF UNDERSTANDING AND TRUST DEED: KEY POINTS

While it is important that the Committee understands and supports the detail of these documents, some key matters and understandings are highlighted here:

Joint Steering Committee

The work of the Joint Special Steering Committee will cease (having exhausted its original terms of reference) when the agreed structure to implement Phases I and II has become fully operational.

Further Parties

While the initial parties named in the MOU are Selwyn District Council and Christchurch City Council it is acknowledged that additional persons or organisations may require to become parties to the agreement contained in the MOU by reason of their having committed to make substantial financial commitment to Central Plains Water Enhancement.

Work Programme for Phases I and II

Sections 3 and 4 of the MOU set out in some detail the work to be completed in phases I and II.

Water Trust and “Waterco”

Initially work will be progressed through the establishment of a water trust with formation of the entities responsible for constructing and operating the scheme following when consents are in hand. As noted above establishment of a company structure may be needed earlier than this to accommodate funding options.

A contract would be entered into between the water trust and the owner/operator entities dealing in particular with the conditions on which the resource consents would be made exclusively available to these entities.

Taxation

The Steering Committee has taken advice to ensure that the structures proposed will not prevent the adoption of taxation procedures that are favourable to those parties which have provided or committed to provide significant financial support for the purposes of Phases I and II and beyond.

Trust Status

The water trust would be established as a charitable trust which has as its overriding objective continued public ownership (through Christchurch City Council and Selwyn District Council) of the resource consents, to ensure long term community protection of scarce water resources.

Representation of Other Groups

To give proper expression to this Council's resolutions which are now embodied in CEDF funding conditions, trust membership will be automatically available to a nomination from Te Runanga o Ngai Tahu and two nominations by the Parliamentary Commissioner for the Environment.

Trustee Competencies

After the appointments made above, the remaining nine trustees would be appointed based on the need to meet the pre-determined generic and particular competencies set out in the MOU.

Trust Objectives

These have been set down in the deed as:

“4.1 The Trustees declare that the Trust is a trust for charitable purposes for the benefit of the present and future inhabitants of the regions and further declare that the Trust Funds may be applied and used extensively by the Trustees for the following general purposes within New Zealand (“the **Objects**”), namely:

- (a) to encourage, support and facilitate sustainable development of the water resources of the regions for the benefit of the inhabitants;
- (b) to provide and facilitate opportunities for agricultural and horticultural diversity in the regions;
- (c) to provide and facilitate education to the inhabitants of the regions in relation to water issues affecting the regions;
- (d) to appropriately balance enhancement of economic benefits for the regions with enhancement of ecological, social and recreational values for the regions.”

The recommendation was put to the meeting and declared **carried** on division no 1 by 6 votes to 2, the voting being as follows:

For (6): Councillors Anderton, Harrow, O'Rourke, Stewart, Wright and the Chair.

Against (2): Councillors Corbett and Crighton.

- Recommendation:**
1. That a trust be formed to complete the next stage of Central Plains Water Enhancement (CPWE), being concept refinement and conclusion of all aspects of the feasibility study (Phase I) and application for resource consents (Phase II).
 2. That as well as carrying out Phases I and II of CPWE, the trust will:
 - (a) Establish a trust fund to pursue the objects of the trust;
 - (b) Undertake any preparation necessary for establishment (Phase III) and implementation (Phase IV) of CPWE; and
 - (c) Own the resource consents necessary for CPWE in the longer term.
 3. That the Christchurch City Council and the Selwyn District Council execute a Memorandum of Understanding and a Declaration of Trust, to provide for establishment of the trust, its objects, powers and operational guidelines, and to record the intentions of the parties for the next stage of CPWE.
 4. That to establish the trust the Christchurch City Council and the Selwyn District Council will:
 - (a) Approve a name for the trust;
 - (b) Adopt a professional and transparent process for the appointment of the trustees of the trust.
 - (c) Each appoint two members to a trustee selection committee that will recommend to both Councils the trustees to be initially appointed.
 5. That the two Councillors nominated in 4 above exclude themselves from nomination as trustees.

6. That the Chair and Deputy Chair of the Strategy and Finance Committee be appointed to the trustee selection committee.