

**MINUTES OF MEETING OF THE BOARD OF  
OPUHA WATER LIMITED  
HELD 8.30AM, WEDNESDAY 29<sup>th</sup> OCTOBER 2014  
AT THE BOARDROOM OF OPUHA HOUSE, PLEASANT POINT**

- PRESENT:** T Lambie (Chair), D O’Sullivan (Vice-Chair), T Howey, J Boys, A Reid, N Hyslop, N Gormack.  
Also in attendance was T McCormick (CEO), R Wells (Consultant) and A Bennett (minutes).
- APOLOGIES:** Nil.
- AGENDA:** The agenda was distributed prior to the meeting with the October 2014 Management Report.
- PREVIOUS MINUTES:** It was noted to reword the apologies recorded in the previous minutes. Mr Gormack and Mr Wells were recorded under apologies for lateness. Mr Reid was not in attendance.  
On page 3 of the minutes under “Operations and Maintenance Contract”, the third paragraph was updated to read ‘has been identified as a low probability with a high consequence of failure’.  
It was **Resolved** that the Minutes of Meeting of the Board on 23<sup>rd</sup> September 2014 be confirmed as a correct record of that meeting. This was moved by Mr O’Sullivan and seconded by Mr Howey. The motion was carried.
- MATTERS ARISING (from previous minutes):** The Action Points status table was reviewed and the following discussions were recorded:  
Mr Howey commented that a number of action points from the minutes seem to not be recorded in the action point list. Expressions of interest in AN water needs added to the surplus water action. Mr McCormick and Ms Bennett to review the minutes and action list.  
“D” Shares Redemption  
Mr McCormick confirmed that “D” shares are available for redemption at \$50 per share for 12 months. A reminder will be sent in March 2015, a few months before the expiry of this offer. This action to remain on the list. *[After the \$50 redemption offer expires, they are redeemable at the greater of \$1 nominal value and ‘fair value’. The Company can require the shares to be surrendered or redeemed under this provision.]*  
TrustPower Maintenance Plan  
Mr Gormack commented that he would like the TrustPower action for the asset management plan to manage key risk issues associated with power station governor and hydraulic systems to be an “A” priority. He would like to see the plan extended to include all the power station systems to ensure we have a comprehensive picture of future costs. We require a long-term maintenance plan, 5 year, 10 year, 15 year plan which includes a contingency factor.  
Water Quality Forum (NIWA)  
Mr Howey asked if the NIWA notes could be circulated from the water quality forum on 19<sup>th</sup> August, he recalls receiving the flushing flow report but not the minutes. Mr McCormick to follow up then the action can be removed.
- Action: Mr McCormick**
- CONFLICTS OF INTEREST:** The Conflicts of Interest register was reviewed and the following amendments were made:  
Mr Howey added his interest as Director and Shareholder of Viberi New Zealand Ltd.  
Mrs Hyslop noted her interest as a Director of Aoraki Development Business Trust (ADBT) and updated her role at Irrigation NZ from Director to Chair.  
Mr McCormick and Ms Bennett to follow up with Tavendale and Partners to confirm why Kakahu and Totara Valley companies have not yet been struck off. Assume because they were not amalgamated and went through a sale, and whether they would not be struck off until the 2015 year tax returns had been filed.

**Action Point: Mr McCormick/Ms Bennett**

**CHANGES TO SHAREHOLDING:**

The Changes to Shareholding list was presented for approval by the Board.

- RWP & SM Tregenza to RWP & SM Tregenza Family Trust
- Kakahu Farm Ltd to Slater Farms Ltd
- LO & M Fryer to DW Phiskie & MD McCabe
- Raincliff Station Ltd to The Kowhais Ltd
- Raincliff Station Ltd to Pye Group Ltd
- Yvonne Williams to Daniel Ike Williams
- P & C Breen to CJ & PS Breen Family Trust
- AD & FA Sole to C & K Harrison
- WG Clarke to R & Y Davoren

Ms Bennett advised that the full amount outstanding on Clarke's debtor account was received on property settlement (2<sup>nd</sup> October) through the lawyers.

It was **Resolved** that the share transfers listed above be approved subject to receiving signed water agreements (if they haven't been received to date). This was moved by Mr Howey and seconded by Mr Boys. The motion was carried.

Mr McCormick and Ms Bennett to prepare a real estate/legal pack to send out so professional bodies are notified we have a share transfer process in place.

**Action Point: Mr McCormick / Ms Bennett**

The following sales are due to take place but formal advice is yet to be received:

- Forest Gate Farms Ltd to Morrow Contracting Ltd

**BOARD PAPERS: Electricity Generation Contract - Pulse Energy**

Mr McCormick provided a copy of the paper given to the sub-committee presenting a summary of the offers received for the renewal/replacement of the Power Purchase Agreement for the sale of electricity. The purpose of the paper to the sub-committee was to present the key issues associated with the two best offers to enable an informed discussion and decision. TrustPower had come back with a counter offer including an option for OWL to retail to irrigators. . The sub-committee have met and discussed the two options and agreed that the retiling option did not provide sufficient value to bridge the gap between TrustPower's PPA and the offer from Pulse. The recommendation of the sub-committee was to accept the offer from Pulse Energy.

A draft PPA contract has been received from Pulse and sent to Mr Leete for review.

Mr Howey raised concerns over Pulse's credit rating and the poor trading results. Pulse breached a bank covenant, although Westpac accepted the breach and went on to extend the credit facilities. As Pulse Energy is a listed company on NZX, they have to notify any such breach. Alpine Energy are a customer of Pulse and have not had a problem with payment to date.

The settlement of funds is proposed for 21<sup>st</sup> of the month, rather than 20<sup>th</sup>. Mr Howey suggested that we ask whether a letter of credit or bond can be held at the bank, or whether they can make regular payments to reduce the credit risk. Mr Gormack suggested that we ask for an 'on-account payment' to be made at the end of each month, calculated from 50% of the month before, or a flat charge, and then reconciled against actual for settlement on the 21<sup>st</sup>. It would limit our exposure down to one month instead of two months. The Board agreed that they are comfortable with going with Pulse but that a bond or other surety, as had been discussed, be negotiated.

It was **Resolved** that Mr McCormick go back to negotiate the contract with Pulse to include an 'on-account payment' to be made on or around the 5<sup>th</sup> of the month following. This was moved by Mr O'Sullivan and seconded by Mr Gormack. The motion was carried.

**Action Point: Mr McCormick**

**ANZ Annual Review & Debt Restructuring Proposal**

A copy of ANZ's annual review report was provided. Mr McCormick noted that no issues arose from the report

At a meeting on 20<sup>th</sup> October with Mr Chris Broughton and Mr Chris Palmer, ANZ presented Mr McCormick with a proposal to restructure debt to provide more balance of short, medium and long-term allocation. A copy of the proposal was included in the Management Report for

consideration by the Board.

The proposal is based on a 'blend and extend' of current swaps so no break fees would be incurred. Mr McCormick noted this exposes our lack of Treasury Policy however the information presented is quite compelling.

The Board discussed the example restructure portfolios on page 5 of the Market Update. Mr Gormack noted to add 1.5% margin these rates. Mr Howey commented that, conceptually, the split into quarters is sound and the Board agreed that around 25% on floating is good.

Mr Gormack commented that with no Treasury Policy in place he would like to see an independent party review the proposal. Rates are potentially going to continue to drop and it's whether we are doing it at the right time. Mr Boys agreed that if we wait six months to get a Treasury Policy in place we may miss the opportunity. Mr Boys suggested we get some advice reasonably quickly to review and then decide. Mr Gormack suggested approaching Murray & Co as they have already been briefed on where we want to go. If we go to someone else we will need to start from scratch.

It was **Resolved** that Murray & Co be engaged (for a fee not to exceed \$10k) to review the ANZ debt restructuring proposal and provide formal advice. This was moved by Mr Howey and seconded by Mrs Hyslop. The motion was carried.

**Action Point: Mr McCormick**

A sub-committee was formed consisting of Mr Gormack, Mr Howey and Mr Reid (KIL debt) to assist Mr McCormick. It was noted to also seek advice from Murray & Co on the KIL debt structure and how it should be handled - whether it become part of the overall company debt or remain separate

**BOARD**

**Water Quality**

**PRESENTATION:**

Mrs Julia Crossman joined the meeting at 9.45am

Mrs Crossman was invited to the meeting to cover an action point on Water Quality and presented a summary of ECan's water quality presentations to the Opuha, Upper Opihi, Lower Opihi catchment groups. Mrs Crossman noted that the presentation does not include Kakahu, Temuka, Tengawai and Totara Valley catchments but this information is available and can be presented at a later date.

A copy of the full presentation will be emailed to Directors following the meeting.

*Mrs Crossman left the meeting at 10.40am.*

**CEO REPORT:**

The CEO report was circulated to Directors before the meeting. The report was taken as read and general discussions on the following were noted:

**Financials**

The reports were based on the period of September 2014.

Mr Gormack confirmed that he has a letter from Grant Thornton confirming the \$270k received for the Collett settlement is not taxable. Mr Gormack to provide a copy of the letter to management to keep on file for the 2015 year audit.

The Board agreed that the budget be re-forecasted to include the replacement energy contract and water revenue from the Collett agreement

**Action Point: Mr McCormick / Ms Bennett**

Following the completion of audits and 2014 financial statements, opening balances from KIL, TVI and LPIC have been received from QA and it is anticipated the balance sheet will be established for the next reporting period.

Mr McCormick noted that ANZ had followed up with some referred advice on the tax deduction of the \$216k break fee incurred when OWL exited the \$4.4m swap in March 2014. Mr Wells commented that he provided an IRD opinion some months ago and it was quite clear that the cost was to be expensed over the term of the loan (2016 year). Mr Gormack added that he does not support seeking an opinion on the ruling and is annoyed that ANZ have come in when this matter was finalised.

*Mr Gormack left the meeting at 11.07am.*

## **Operations**

### Lake Levels and Storage

Statistically the lake level is significantly low. Since mid-August we have been operating at minimum release from the dam and are currently nearly one metre below the historical average minimum for the month. Typically at this time of year we get solid inflows from snow melt but there is virtually no snow and the upper catchment has had little rain to boost inflows. At the end of October the minimum flow moves from 8.5 to 7.0 cumecs. 385m (50% storage volume) is the trigger level agreed with OEFRAG and ECan for 75% restrictions. Mr McCormick to continue working closely with OEFRAG.

**Action Point: Mr McCormick**

## **Asset Maintenance & Management**

### Power Station and Dam Maintenance

Alpine Energy have had a series of outages over a two week period and this provided some opportunities for TrustPower to carry out some planned maintenance activities.

The seismograph at the Dam is required as part of our consent and will be replaced for a cost of around \$10k.

### Downstream Weir Modifications

Mr McCormick is awaiting a revised design package from Tonkin & Taylor for Downer's to begin on a cost estimate. The resource consent approval has not been finalised due to issues raised by ECan's river engineering group relating to higher flood flow levels following an embankment breach. Tonkin & Taylor have prepared a response to ECan's latest questions.

## **Management Reporting**

### Health and Safety

No injury incidents or first aid treatments were recorded during the period.

The minutes and various outcomes from the Health and Safety presentation to the Board on 23<sup>rd</sup> September were provided. It was **Resolved** that the Minutes of Safety Management Workshop Session on 23<sup>rd</sup> September 2014 be confirmed as a correct record of that meeting. This was moved by Mr Boys and seconded by Mr O'Sullivan. The motion was carried.

The Board agreed that the subsequent steps are:

- 1) Pursue a health and safety audit programme
- 2) Adopt ACC accreditation programme (Level 2)
- 3) Adopt timetable to achieve successful audit prior to April 2015

This was moved by Mr Boys and seconded by Mrs Hyslop. The motion was carried.

Mr Boys asked whether there is anyone on the management team that can step up and take on this role. While the audit programme would still need to be driven from the top level, and responsibility would ultimately come back to the Board, it was suggested that Mr Pagan could manage the project. Mr Howey noted he would be happy to assist with how other businesses record 'near misses' and KPI's.

Mr Reid noted that he was not present at the last meeting and would like a copy of the presentation and folder.

## **Strategic Water Projects**

### Saleyards Bridge Flow Recording and Compliance

Mrs Crossman and Mr Pagan continue to work on assessing the different options and any work will be reviewed by Mr Richard De Joux. Work completed will come back to the Opuha Board before being given to OEFRAG for discussion.

### Tekapo Water Project (New Water)

Following receipt of a letter from AWT, Mr McCormick has had an initial meeting with the Steering Group (Mr Ross Rathgen and Mr David Henshaw of AWT, Mr Jeremy Boys, OWL) to consider the initial work programme. AWT would like to they apply their funds to get a robust

cost for conveyance of Tekapo water in return for OWL project managing the investigation. The main focus is on getting a constructor (possibly Downers or, Fulton Hogan) involved in preparing a cost estimate for the initial Tekapo to Burkes Pass section to compare to the estimate in the URS study.

It was agreed to keep discussions at low order, and get the contractors to come back with how they would propose to assess and estimate the cost, given the limited design information available. It was also agreed that two contractors should be engaged for pricing and they may end up working together if the project goes ahead.

Mr McCormick noted he is still to write a response back to AWT to formalise and accept the proposal in writing. Mr McCormick to brief the Board of the minutes from meeting with AWT. Mr Boys and Mrs Hyslop to assist Mr McCormick where required.

#### River Studies and Funding Sources

NIWA have prepared a proposal for on-going river studies relating to Opuha's dam operation. Mr McCormick indicated that he has given approval for NIWA to implement a long term river monitoring programme but that other studies would be dependent on funding and Board approval. Mr McCormick is to prepare a proposal for the Board..

**Action Point: Mr McCormick**

Mrs Crossman met with Mr Murray Doake (MPI, Irrigation Acceleration Fund) to discuss whether there is any central government funding for the flushing flow and periphyton investigations. Mr Doake was not aware of any funding streams that may extend to such work as funding available doesn't fit into 'irrigation development'. Alternative avenues will be sought.

#### **Merger of OWL Entities**

##### Financials

The financial statements for the year ending 30 June 2014 have been completed for all the previous entities.

##### Director Elections and AGM

The AGM has been set for Monday 24<sup>th</sup> November at 5.00pm at the Pleasant Point Golf Club. A Board meeting will be held prior to the AGM at 1.00pm. Location of the Board meeting will be confirmed closer to the date (the Board Room at Opuha House will be required for temporary staff accommodation during the office renovations.)

A reminder of the Director elections and voting to be sent to shareholders (using shareholders preferred communication method) around 5 days before the voting closes on 14<sup>th</sup> November. After discussion, it was agreed that an external entity be engaged to open and collate/count the votes. Voting papers will not be opened by Opuha staff. Mr McCormick and Mr Boys to seek an independent party, possibly a JP, to count the votes.

**Action Point: Mr McCormick / Mr Boys**

Mr Reid commented that he was unhappy that his Director nomination profile issued with voting papers was altered from the version and format that he had supplied. Mr McCormick apologised.

Candidates will be notified prior to the AGM. Voting results will be announced at the AGM and shareholders will subsequently be advised by newsletter and website. Need to consider how long until voting forms are destroyed.

A couple of issues arose from preparing the AGM notice.

- As Mitchell Audit has agreed to cease as auditor at the completion of 30 June 2014, we are required to name the replacement auditor. While we have agreed to review KPMG's role as auditor of OWL, we have had to 'appoint' them as auditor of the new OWL at this stage.
- Directors remuneration - there is a requirement in the new constitution for any proposed increase to be stated in the Notice of AGM. In the absence of any formal proposal to increase from the current level of \$90k, Mr McCormick has put forward that this sum be retained for the current period.

**OWL Systems Update**

Web Based Water Ordering

Mr McCormick advised that the online ordering system is operating for the new season. Mr Reid and Mrs Hyslop commented that they have identified some functionality issues that would help users. It was noted that functionality comments be directed to Mrs Gardner.

Farm Environment Plan (FEP) Web System

Mr McCormick reported that ECan have approved the FEP format and system. Mr Reid asked when he will have online access to view his FEP. Mr McCormick replied that Mrs Crossman would be in contact with those who have prepared FEP's in the near future.

MYOB Exo Accounting System

A significant number of issues remain and there are some concerns over the functionality of the system in the long term. Mr McCormick has not engaged with MYOB directly and will reconsider after meeting with Focus on 3<sup>rd</sup> November.

After discussion, the Board agreed that Mr McCormick prepare a brief for Mr Andrew Johnstone from QA to review the system. A sub-group comprising Mr Boys, Mr Wells and Mr Lambie was proposed to oversee and assist with the review. Mr Johnstone was to report directly to the Board on this assignment.

**Action Point: Mr McCormick / Ms Bennett**

**FINANCIAL STATEMENTS:**

September 2014 Financial Statements

The Financial Statements for the month ended 30<sup>th</sup> September 2014 were taken as Read.

Mr McCormick noted that the profit and loss reports for the month should record \$72,241 not \$92,241 under "K" Class Infrastructure charges.

Mr Wells commented the Aged Receivables report displays excellent collection of overdue accounts, if you take into account the 'since paid'.

Depreciation

Mr McCormick advised that his financial results have included a depreciation figure based on budget. It is understood that Kakahu and Totara Valley depreciation will be based on fair value for accounting and tax purposes. Levels Plain depreciation will be calculated from fair value for accounting purposes, but for tax will be at historical cost. Mr Reid requested that the handling of depreciation in sub-schemes be added to the action point list.

**Action Point: Mr McCormick / Ms Bennett**

**GENERAL BUSINESS:**

Reference - Mr Edward Sullivan

Mr Lambie advised that he has been approached by Mr Sullivan for a character reference - unsure whether he was approached on a personal basis, as it doesn't specify, but he assumes it is a reference in relation to his dealings with Opuha. The Board agreed that Mr Sullivan did a lot for the company, especially through the dam breach in 1997, and has always acted with integrity. Mr Lambie to provide a reference on behalf of the Board.

**Action Point: Chairman**

There being no further business, the meeting closed at 12.30pm

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date