

Morven Glenavy Ikawai Irrigation Company Limited

Explanatory Note – New Water Supply Agreement ("WSA")

As you are aware, the company is putting in place a new WSA to replace the existing WSA which is an encumbrance registered against your property or WSA (in the case at Waihao Downs). The existing encumbrances and WSA's require updating to adequately deal with the Company's regulatory obligations under its consents and modern irrigation practice. In addition, the existing encumbrances are expensive to administer from the company's perspective. The intention is to release the encumbrances over time. Where a farmer has both the new WSA and encumbrance, the WSA will prevail as the dominant document in the event of any conflict.

The purpose of this note is to assist shareholders understanding the new provisions of the new WSA.

1. **Definitions (clause 1)** – this provision sets out the key definitions for the WSA. The clause contains a number of new definitions relevant to the Company and farmers consent requirements, including "FEP" referring to the Farm Environment Management Plan and "Land Use Consented Area" which refers to the command area highlighted within the Company's Land Use Consent.
2. **Clause 2** – the term of the Agreement is open ended and continues until such term as it is terminated in accordance with the provisions of the Agreement.
3. **Supply of Water (clause 3)** – the Company agrees to supply water to the farmer in each irrigation season in consideration of the payment of water charges. Farmer's entitlement to take water relates to shares held with one share representing one hectare. The farmer can spread water further with the consent of the Company and payment of the appropriate additional water charge (clause 3.3).
4. **Management of the Supply of Water (clause 4)** – the farmer acknowledges that the Company will determine the volume of water available and the restrictions that apply. The water is not potable but can be used for stock water. In the event the supply of water is diminished or suspended for any reason the Company will endeavour to make water available in an equitable manner.
5. **Water Charges (clause 5)** – water charges are payable on a per share basis and are to be determined by the company to recover capital, operating and are specific payable farm expenses. The WSA contains more detailed provisions in respect of water charges for clarity. Clause 5 provides that capital expenses may include construction, consent costs and Capital repayments to the bank. Operating expenses may include maintenance repairs, electricity, administration and compliance costs. In addition, the Company can recover specific costs from farmers when supplying water to a farmer requires additional costs of delivery.
6. **Farmer Obligations (clause 6)** – the WSA goes into more detail in relation to farmer obligations including requiring the farmer to comply with resource consent and FEP obligations, to hold the number of shares required to irrigate the property and be responsible for their own distribution and infrastructure costs on farm, not plant or allow trees to be grown on the easement area and not obstruct or interfere with the company's operations and infrastructure or allow the infrastructure to be erected on easement land, and to allow the Company's contractors and employees access to effect repairs where required.
7. **Health and Safety (clause 7)** - this clause has been inserted to reflect the provisions of the new HSWA legislation.
8. **Company Obligations (clause 8)** – the company has obligations to the farmer including taking all reasonable steps to maintain the consents, compliance with relevant company's legislation, health and safety legislation and maintenance of infrastructure.

9. **Environmental Provisions (clause 9)** – this provision goes into more detail in terms of the farmer's obligations to the Company in respect of the RMA, District Regional Plan and the farms FEP. These provisions are to ensure that the farmer does not place the company in breach of the consents the company holds to take water, and in respect of land use.
10. **Resource Consents and Approvals (clause 10)** - the farmer further agrees not to object to any application sought by the Company in respect of its operations and where required will sign and deliver written approval to the Company to allow it to undertake its operations and gain the necessary consent required to build further infrastructure.
11. **Metering (clause 11)** – the farmer may be required to install water meters at all spray turnouts to meter its water take.
12. **Sale, Subdivision or Lease (clause 12)** – this clause deals with the situation in the event a farmer sells or subdivides their farm. Any transfer of shares to a third party through the sale of a farm requires the new purchaser to enter into the Company's then current WSA.
13. **Company's Rights and Powers (clause 14)** – this provision extends the Company's existing powers in relation to undertaking works and maintain and improving the Scheme Infrastructure.
14. **Easement (clause 15)** – the farmer Company consenting to the company taking easements over the farmer's property to support the Company infrastructure e.g. races.
15. **Encumbrance (clause 16)** – it is anticipated that the Company will gradually release the encumbrances over time.
16. **Default (clause 18)** – the agreement contains standard default provisions.
17. **Remedies (clause 19)** – the new agreement contains more detailed remedies including the ability to cut off water in the event of non payment by the farmer of water charges and the requirement for the farmer to pay costs associated with an FEP audit if required by the Canterbury Regional Council.
18. **Limitation of Liability (clause 21)** – the Company's liability under the Agreement is limited for the benefit of all shareholders. The Company will not be responsible for any loss incurred by a farmer in the event of its failure to supply water.
19. **Financiers (clause 36)** – this standard provision in modern WSA's whereby the farmer acknowledges that the Company's rights in the WSA's may be assigned or charged to the Bank in the event the Company takes out a significant Bank borrowing in the future or infrastructure development.

We hope these comments have been of assistance.

If you have any queries in relation to any of the additions to the WSA, please contact Craig Evans (027 556 5610 / craig@mgiirrigation.co.nz) or David Goodman (the company's solicitors 03 379 0037 / david.goodman@andersonlloyd.co.nz)