

IN THE MATTER

Resource Management Act 1991

AND

In the matter of Proposed Plan Change 5A (Lindis:
Integrated Water Management) to the Regional Plan:
Water for Otago

BY

LINDIS CATCHMENT GROUP

CLOSING SUBMISSIONS ON EVIDENTIAL MATTERS

Solicitor Acting: S Chadwick

Webb Farry

Lawyers

79 Stuart Street

PO Box 5541

Dunedin

Telephone: (03) 477 1078

Facsimile: (03) 477 5754

Closing submissions on evidential matters

The status quo

- 1 To assess this plan change the Committee must first understand what is on the ground at the moment. Water use in the Lindis has been at the same level for approximately 80 years. There has been almost no change to the amount of water taken for all of that time.
- 2 There is extensive evidence demonstrating the complexity of the existing irrigation infrastructure and sharing arrangements. Only a few of the irrigators have the same full understanding of the systems in place that you will have from the evidence you have heard.
- 3 It is submitted that to assess the plan change the effects of the proposed changes must be assessed against this status quo. The extent of effects are then to be evaluated by considering the extent of effects of each option against the status quo.

Future proposals

- 4 There are a range of proposals that are possible in the future for irrigation in the catchment. If Ms McKeague's vision proceeds there will be an application made for group water to replace the existing permits. The application will seek sufficient flexibility to enable water sharing agreements to then be negotiated between all water users in the catchment (not just the current LIC members). After a resource consent is obtained the terms of the water sharing arrangement will be established, The individual water users will then take steps to determine how they will use their share of the water.
- 5 On this approach the infrastructure that will be created to utilise the water will be at each water users cost. The practical issues must also be worked through individually. To the extent that one water user is 'in the tent' with another water user, they will be more likely to assist the other with access.
- 6 It must be clear that the Lindis Catchment Group does not have anything concrete in mind. Nothing can be progressed until the management regime is set through this plan change and the parameters for negotiation are set.
- 7 There is no vehicle with capital that will invest in shared infrastructure.

- 8 Through this plan change methods have been identified that will enable this most practical and optimal solution of group water sharing agreements to happen.
- 9 If a package of transition provisions that support and enable an equitable transition to new infrastructure is provided, and the parameters set by the plan change provide sufficient access to water to ensure that an investment in new irrigation systems is financially viable, then the community will be able to move to new water takes.
- 10 The benefits of shifting away from the status quo, to a new water system are clear. Mr Hickey's evidence is that the benefits to be gained from shifting of takes downstream and placement of takes in a gaining reach are substantial.
- 11 Under an overly restrictive regime, including minimum flows of 750l/s and a priority allocation of only 1,000l/s these future proposals become extremely unlikely and in pure economic terms unjustifiable.

Tarras Creek

- 12 There are a large number of farmers in the Tarras Creek who are members of the Lindis Irrigation Company ("LIC"). They have a vote on what the LIC will do to replace its water permits. If the Tarras Creek farmers are excluded from the Lindis catchment they will have limited motivation to vote for these permits to be replaced on terms which would provide the optimal outcome for the river.
- 13 The decision to apply for replacement water permits is a major transaction for the company. Under the requirements of the Companies Act 1993 a major transaction requires 75% of the vote to pass. Looking purely at the numbers in LIC the Tarras Creek farmers must be included in the Lindis catchment.
- 14 Looking at social connections with the Lindis catchment there are also a range of reasons to retain this area within the catchment.
- 15 Looking thirdly at water options there are further reasons to keep this area within the Lindis catchment. The inclusion of the Tarras Creek area is the only way to retain an option for these farmers to get access to water. We have heard the limitations that will prevent access to the Clutha. We have heard that the geology prevents access to the aquifer.
- 16 There are smaller operations within the Tarras Creek whose best chance of getting water on an economic basis is to do so with a small group of

neighbouring farmers who could access water from the Lindis. Once the water is obtained it will be for each farmer to evaluate the cost of the physical work needed to get the water to their property. There are no guarantees this will be economical, but in combination they will have the best chance of making this work. Where costs are tight it would be illogical to increase the cost of consenting, and from a planning perspective it is also unnecessary as there is no evidence of any environmental effects that would require a higher classification.

- 17 It is submitted that it is important for the Committee to retain opportunity for the Tarras Creek water users to find a way to make it work using water from the Lindis.

Storage

- 18 The evidence is that potential for storage is limited, costly and small. Existing small scale storage provides possibly up to 6-12 hours irrigation. The Aqualinc report provides information about the extent of storage required to provide additional reliability in summer.

- 19 However taking the extent of storage identified in the Aqualinc report as necessary, when you then come to the Lindis catchment to try and identify potential sites for such a large amount of storage, you see that there are none. There is nowhere in this area that could provide so much storage that would not be prohibitively expensive to establish, and also require substantial ongoing operating costs to pump water uphill and then uphill again.

Alternative sources

- 20 The evidence given by all people familiar with the practical issues of accessing water, is that there extremely limited viable new alternative sources for properties currently reliant on the Lindis river.

Hydro electricity

- 21 As we have heard Contact is roundly benefitted by the changes established through this plan change. The implementation of minimum flows will be to Contact's benefit. It is submitted no further allowances need to be made.

The importance of reliable water

- 22 This issue has a great bearing on the difference in the amount of water left for use between the two minimum flow options. The 450l/s option takes away

200l/s of reliable water compared to the status quo (you have heard evidence that at present flows in the river go down to approximately 250l/s). The 750l/s options takes away 500l/s of reliable water. However the difference between the two options is extremely important. That 300l/s difference is essentially the extent of the remaining viable water that users reliably have available to use in the summer season. Given there is a limited amount of reliable water in the summer in the Lindis, this has a significant effect for water users. Losing this amount of reliable water directly impacts the ability to finish stock and a resultant significant loss in profit.

- 23 The importance of the portion of water in the catchment that is reliable, is that you can expect to be able to use it. The certainty that reliable water provides is essential for making business decisions, and for providing the ability to plan and have some predictability of feed production to try and get through the summer.

Economic effects

- 24 It is submitted that the BERL report has been discredited to the extent that you cannot rely on it. Mr Collier is clear that BERL's original assumption regarding land use in the Lindis area was incorrect. In addition the farming model used in the BERL report is a composite model from regions outside of Otago. This irreparably affects the base figures. It is submitted that the questions from the Committee will not change this incorrect starting point. The figures drawn from the incorrect starting point are not accurate enough to provide you with a suitable economic analysis for decision making.
- 25 The economic evidence provided by LCG is robust and based on local conditions. It throws up a figure that is consistent, within \$10, with the real world example provided by Mr Davis. The evidence of LCG enables you to understand the extent of economic impact, and also the effect on employment, and the flow on effect on the small school population.
- 26 It is submitted that you must take care not to go straight to considering the difference in productivity or income under a 450l/s minimum flow regime with the productivity or income operating under a 750l/s minimum flow regime.
- 27 As noted earlier your starting point for an effects assessment is the status quo. You must first consider the extent of loss that will result between moving from the status quo to minimum flows of 450l/s. The evidence you have heard is that a clear economic impact will follow.

- 28 Mr Porter's evidence is that minimum flows of 450l/s will reduce any existing irrigated farms' revenue by a minimum of 21% and reduce the farms' asset value by a minimum of 12%. Understandably the water users in the Lindis have taken time to accept this this loss.
- 29 There is a big shift for water users just to accept this, but everyone wants to find a workable proposal so that we can move forward.
- 30 As a second step you may then consider the extent of that loss of revenue and value under a 750l/s minimum flows regime. Mr Porter's evidence is that imposing a 750l/s minimum flow regime will reduce an existing irrigated farms' revenue by a minimum of 41% and reduce the farms asset value by a minimum of 25%.
- 31 The evidence is that the impact of a 750l/s minimum flow regime will make it uneconomic to shift to any new system. It will reduce revenue and value to the extent it will not be possible to continue to farm. It will compromise the financial viability and sustainability of these farms and effectively force some people off their farms.
- 32 Purely on an economic analysis the impact of a 750l/s flow regime is prohibitive.
- 33 Mr Collier also provides clear evidence of the adverse impact of a 750l/s on employment figures in the catchment also.

Social effects and social capital

- 34 The social capital in this district has been shown through the community's full involvement in this hearing process. People are not easily available, but they have made themselves available.
- 35 Well before this hearing started water users have spent time, effort and money working to find a solution for you. The evidence of the experts you have heard for LCG has been funded to demonstrate what many heads have worked together to identify as the most practical solution.
- 36 The community works together to share water, in some cases even when one user has priority over another on paper. The community wants to continue this co-operative model for sharing water.
- 37 If there is a shift to a very restrictive regime, this community could begin to dissolve. It is submitted that support for the co-operation between members of

this community is a key consideration for the Committee. If things get difficult this could pit neighbour against neighbour.

Environmental effects assessment

Ecological effects

- 38 Across the board there will be beneficial environmental effects that result from the shift away from the race irrigation system. Assessing this benefit is the first step that can be taken. The evidence of all parties must recognise that a shift away from races will substantially improve with the movement of points of takes down river.
- 39 Once minimum flows of 450l/s are implemented this will also have benefits, seen particularly in the reaches which have commonly been dry under the status quo.
- 40 All parties have recognised that the current state is not ideal, though there is clearly no recruitment issue at present. Status quo flows are sufficient to support this. Assuming a change in points putting a considerable amount of water back in the river for a long reach and other advances from new infrastructure, the future state of the river will even better provide habitat for trout and indigenous species.
- 41 It is submitted that the evidence of Mr Hickey is that the minimum flow regime will provide for and enhance values for trout and indigenous species.
- 42 The minimum flows will put water in the lower reaches of the river and provide a link with the Clutha. Summer freshes will further boost these flows and also provide for outmigration of trout during summer and give additional connectivity to enhance cultural values.

Recreational effects, natural character, visual amenity and cultural values

- 43 These values increase correspondingly with ecological values. The advances made with changes to new infrastructure are clear.
- 44 The increase in water in the river once minimum flows are implemented will also have benefits for connectivity which is a cultural value that iwi are interested to preserve.
- 45 It is submitted that there are no other ecological or environmental effects which require additional protections such that a residual flows mechanism would be

required. Such a mechanism would have a negative impact as it would restrict options for water users to take the first step of moving away from the races to a new water sharing system.

Transitional provisions

- 46 We have heard that the positive effects that can be expected from the change to a new water sharing scheme cannot be underestimated. However this community needs to be given support and enabled through plan provisions to allow them to get there.
- 47 It is submitted that there is no effect on the wider region if this was to be provided. The transitional provisions are fixed to the unique circumstances of the Lindis. The race system here needs to be decommissioned to add the values we are seeking. The community has a strong network that will enable them to move forward together.
- 48 The matter of doing so needs to be provided in specific plan provisions which are predicated on them relating only to the Lindis catchment and on the replacement of specified water permits.
- 49 The approach proposed is practical and it is also fully supported by the approach to change taken in the National Policy Statement for water. That NPS allows for extended timeframes for implementation
- 50 It is submitted that the specific rules inserted must allow for the minimum flows to be implemented five years after the commencement of the replacement resource consents enabling the shared water scheme.

LCG

- 51 Assuming that the transition is economically viable and logically sensible, the movement downstream of points of take, and change to several takes instead of one large one, will put water back in the river. This will result in substantial benefits in terms of ecological values, iwi values, including mahika kai, benefits for recreational users, natural character and amenity.
- 52 Through this plan change process we have discussed the tools available to you to support and enable a shift to a new irrigation system in the Lindis to occur. Strictly in terms of benefit, the evidence is that the shift to a new irrigation system is a necessary first step.

- 53 The evidence from the water users is that there is a specific regime that will support and enable that change; and that there is a specific regime which will likely mean that any shift to a new irrigation system becomes unsound.
- 54 The plan change was notified as being to set a new management regime for the Lindis catchment. The purpose of this process is to set the details of that management regime. The proposed provisions are in furtherance of that aim. The LCG asks that you work with us to establish a solution so that we can all move forward and start working on the next big problem, of how to get Ms McKeague's vision off the ground.
- 55 The risk of the water users not meeting this timeframe is a risk faced by consent holders everywhere. If they do not meet the conditions of their consent then they lose the benefit of the consent.

Conclusion

- 56 We have heard that storage and the other alternative options put forward by the Council are not possible. We have heard that having a certain management regime is essential to provide surety of income to justify the investment required to shift to any new water take system and new water sharing arrangements.
- 57 Further, the setting of minimum flows directly affects the reliable water available, which is something that must be maintained to provide a tool with which to weather the summer season. The minimum flow option of 750l/s effectively removes access to reliable water in the summer season.
- 58 The evidence is that a shift away from the races that are relied on at present (the status quo) will add real beneficial effects in terms of ecological, cultural, recreational, natural character and amenity values.
- 59 To shift from the status quo, the future proposal that will provide the most efficient use of water, is a water sharing scheme (not an infrastructure sharing approach). The consenting process that advances the community towards this scheme needs to be supported with an equitable regime and facilitated by transition provisions which apply specifically to those water permits for Lindis catchment water which need to be renewed by 2021.
- 60 Once the consents are renewed the water users will have a short time frame to put in place their water sharing agreements and then get funding for infrastructure, and then build it. The community is conscious of the need to

progress this quickly and have offered five years as a timeframe they are hopeful they can meet.

- 61 It is submitted that the management regime put forward by LCG is comprehensive, well supported in evidence and reflects an appropriate balance that takes full account of the overall effects that will result from the setting of a new management regime.

Dated at Wanaka this 6th day of April 2016

S M Chadwick
Counsel for the Applicant
Lindis Catchment Group