

Presented to Council 28/9/16

Decision:

That the in committee minutes for Item 14 - Proposed Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago be released to the public.

Presented to Council 10/8/16

Decision:

Exclusion of the public for discussion of Item 14 of the agenda *Proposed Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago*

EXCLUSION OF PUBLIC

That the public be excluded from the following part of the proceedings of the meeting.

The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1)(a) and 48(1)(d) of the Local Government Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subjects to be considered

Item 14 Recommendations of the Hearing Committee on the Proposed Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago.

Reason under LGOMIA for passing the resolution

Section 48(1)(d): That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.

Section 48(2) - Paragraph (d) of subsection (1) applies to—

(a) any proceedings before a local authority where—

(i) a right of appeal lies to any court or tribunal against the final decision of the local authority in those proceedings; or

Ground under S.48 for this passing of the resolution

LGOIMA ss48(1)(d) and 48(2)(a)(i)

S.48(1)(d)

In Committee Minutes Council 10 August 2016, commencing at 11.12 am

Present:

Cr Stephen Woodhead (Chairperson)
Cr Gretchen Robertson (Deputy Chairperson)
Cr Graeme Bell
Cr Doug Brown
Cr Louise Croot MNZM
Cr Michael Deaker
Cr Gerrard Eckhoff
Cr Gary Kelliher
Cr Trevor Kempton
Cr Sam Neill
Cr Bryan Scott

Apology: **Cr David Shepherd**
The apology was noted.

In Attendance: Peter Bodeker
Nick Donnelly
Fraser McRae
Gavin Palmer
Scott MacLean
Caroline Rowe
Janet Favel (Minute taker)

In attendance: (Item 14): Hearing Commissioners; Clive Geddes,
Richard Allibone, ORC staff; Tom de Pelsemaecker, Julia Briggs

*Cr Woodhead left the room due to a declared conflict of interest for the item
Cr Robertson (Deputy Chair) assumed the Chair*

2016/0947 Item 14 Recommendations of the Hearing Committee on
**Proposed Plan Change 5A (Lindis: Integrated water management) to the
Regional Plan: Water for Otago**

Cr Robertson welcomed Hearing Commissioners Clive Geddes and Dr Richard Allibone, and staff members Tom de Pelsemaecker and Julia Briggs.

The report presented the recommendations of the Hearing Committee on Proposed Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago (Water Plan) for Council's decision in accordance with Schedule 1 of the Resource Management Act 1991 (RMA). It was noted that Council's meeting held on 28 October 2015 agreed the timetable for presentation of the recommendations.

Mr McRae commented that the Plan Change was unique and complex, and had taken an integrated catchment approach. He explained that Council could either accept the recommendations, or reject the recommendations and refer them back to the Committee. He noted a correction in the recommending report to refer to policy 6.6.7, not 6.6.9.

Cr Robertson considered it an honour to be involved in the Plan Change 5A process. The Committee had decided they would hear anything submitters wanted to say, and would decide later whether the submissions were within the scope of the Plan Change. A decision was also made to pre-circulate expert information that was presented. A full day site visit was undertaken. Strong submissions were received on social, scientific, cultural, and ecological value aspects of the Plan Change. The Committee worked through all submissions in order to extract all points made, and kept to true facts and obligations under the law.

Cr Robertson noted that the Committee made recommendations to retain much of the Plan Change, and pointed out that the Plan Change covered surface and ground water conditions. She explained that the Recommending Report and S32 and S32A analyses were combined into one report. A key point that was retained was the proposed boundary of the Lindis

catchment. A request was received to include the Tarras Creek catchment but the Committee was unable to find a hydrological link between the Tarras and Lindis catchments. A number of people who used water from the Lindis lived within the catchment.

Changes recommended were:

- Clarify the dates to which supplementary minimum flows apply – 1 May to 30 November, and 1 December to 30 April.
- Remove from Schedule 4B.2 the proposed restriction on irrigation takes from the Lower Tarras and Bendigo Aquifers. The Committee considered there was no good reason for that prohibition – no evidence was proved that winter abstraction from the aquifer would impact on hydroelectric power storage, and water was needed for frost fighting. A consent regime would still apply.
- Amend minimum flow for primary allocation to 900 l/s.
- Amend primary allocation limit to 1200 l/s.

Dr Allibone explained that the Lindis was not a simple catchment, having four distinct reaches: upper to Point; Point to Ardgour Road Bridge; Bridge to Ardgour minimum flow site; and flow site to Clutha confluence. Flow losses and gains depended on the flow in the river and in the aquifer, and actual boundaries between losing and gaining reaches were not defined, which affected decisions on how to provide for ecology values. There was evidence that as flow changed, flow losses and gains changed: the higher the flow, the greater the loss to groundwater. The relationship with the Ardgour flow site was not certain; Dr Alibone noted that the original Plan Change showed two different flow recorders, the flow from before 2013 being different from now.

Cr Robertson commented that the Committee had to be careful to extract actual facts, pointing out the effects of changes to the river course, climate, gravel movement, and losing and gaining stretches.

Mr Geddes thanked Council for inviting the hearing commissioners to attend the public excluded section of the meeting and explain their decisions and reasoning. He referred to the RMA and the National Policy Statement for Fresh Water Management (NPSFWM) and explained the legislative hierarchy of documents in processing a resource consent or Plan Change. Mr Geddes further explained that dealing with over allocated waterways changed the way the hierarchy of documents was used. The NPS stated that plans could not allow further over allocation, and had to eliminate existing over allocation. Decision makers had to have regard for two NPS values: the mauri and health of the waterway itself, and of the people who used the waterway. The Committee had developed a template against which each issue was considered, and had recorded each of these decisions.

Mr Geddes noted that the S32 analysis, required to be prepared to support the Plan Change, included Council and outside parties. A key piece of the analysis was a study of water demand and hydrology of the Lindis catchment prepared by Opus consultants. BERL was commissioned to analyse the Opus report in relation to the effect on farming of the demand for water. Opus used a four part water available analysis; they analysed the Lindis catchment as a whole where water users had to source water from the Lindis, i.e. they had no alternative source. This analysis provided data on demand for water. There was an irrigable area of 2400 ha, and to irrigate that area efficiently, a primary allocation of 1200 l/s was required. BERL applied that information to the range of farming types in the Lindis. The financial performance of that range of farming types was discounted by looking at the number of days

water would not be available. The resultant recommended minimum flow would have an economic impact on existing water users, but the economic reduction of 6.6% was not as significant as some evidence indicated. Evidence at the hearing looked at a model farm, expressing the opportunity cost of water in an ideal scenario. No evidence was presented that looked at a catchment-wide performance of the various types of farming. There was also a lack of evidence on how much water was currently used efficiently.

Cr Robertson noted that submissions asked for a range of transition elements to assist moving from deemed permits to the new regime. These requests were considered but no changes recommended, and she noted the transition dates in Plan Change 6A.

Cr Eckhoff asked if the minimum flow would be revisited if subsequent information was received showing that the 6.6% was not working. Cr Robertson pointed out that a formal process had been followed, that Council had a requirement to phase out over allocation, and the 2021 date was set by the RMA.

Cr Scott noted the transition period of 4-5 years to meet the PC6A requirements. He thanked the Commissioners for their work, and commended the well written and logical report. He accepted that there would be some hardships, but the river was over allocated and communities would have to adapt. He would support the recommendations.

Cr Deaker congratulated the Committee on their very thorough work, and stated that he would support the recommendations.

Cr Kelliher acknowledged the work by the Commissioners. He asked if the Committee was comfortable that the economic work carried out could result in a robust decision. He noted concerns raised earlier that the reports commissioned were very high level, and there needed to be more consideration of impact on individual properties. Cr Robertson commented that the Committee was mindful of different flow regimes and the impact they would have on individual properties. Iwi and Fish and Game had asked for higher minimum flows. The Committee had weighed environmental, economic, cultural and social aspects and arrived at a minimum flow of 900 l/s.

Cr Kelliher accepted the need for greater environmental flow, but considered that 900 l/s was too high. He would vote against the recommendations.

Cr Brown agreed with Crs Scott and Deaker. Councillors had to have faith in the process, and he was impressed with the Commissioners' explanation of the process they had followed. He would vote in favour of the recommendations.

Cr Eckhoff commented that Central Otago councillors were in a difficult situation – they had obligations to their constituents and to Otago. Cr Kelliher's comments earlier in the process in relation to the Opus and BERL reports had been picked up by a lot of people and there was concern that a desk top exercise was carried out. He noted the use of scientific and expert evidence, but did not understand the concept of mauri/spirituality of water. Cr Eckhoff pointed out that local landowners had developed a culture that worked in the area. He was disappointed that the original report recommended a minimum flow of 450 l/s, and this process had arrived at 900 l/s. Consideration should be about science, but should include the social aspect of the community who live and work in the area.

Cr Bell respected the Committee's work, but questioned whether the community would see this as fair and reasonable, and noted the potential huge cost to them. He thought the community could have lived with 750 l/s. He considered that the Lindis decision would be a benchmark for consents in Central Otago, and the ORC had to be able to defend its decisions. Cr Bell asked whether ORC had a corporate policy on irrigation, and understood that NPS contained such a policy. He considered that ORC needed to show more leadership in the commercial world of irrigation.

Cr Kempton pointed out that the local community had access to the information prior to the hearing, and the procedure had been followed. He commended the balanced approach applied by the Committee.

Cr Neill had understood that the Committee would deliver its summary of the findings and then vacate the room while the recommendations were discussed. He congratulated the Committee on their work, but considered that they were wrong on the 750 l/s vs 900 l/s divergence. He pointed out that experts had stated 750 l/s would be acceptable, but the recommendation gave no option to accept the lower minimum flow.

Cr Croot appreciated the broad integrated plan approach, pointing out that the minimum flows were based on the whole catchment rather than individual reaches. She also noted the necessity to integrate national issues. The proposed Plan Change decisions would now go out to the submitters who could appeal to the Environment Court if they wished. She thanked the Commissioners for their work.

Moved Cr Scott
Seconded Cr Deaker

That Council

1. *Adopt the recommendations of the Hearing Committee on Proposed Plan Change 5A (Lindis: Integrated water management) as its decision;*
2. *Publicly notify its decisions on Proposed Plan Change 5A (Lindis: Integrated water management) on Saturday 13 August 2016; and*
3. *Notify submitters of its decisions.*

The vote was taken by division:

For: Crs D Brown, L Croot, M Deaker, T Kempton, G Robertson,
B Scott

Against: Crs G Bell, G Eckhoff, G Kelliher, S Neill

Absent: Crs Woodhead, Shepherd

The motion was carried

Cr Eckhoff queried how the Committee Chair could have a vote. Cr Robertson explained that the hearing had now closed, and she had exercised her vote as a councillor.

Cr Robertson thanked Committee members, ORC staff, especially Mr de Pelsemaeker, Ms Briggs, and Mrs Meredith, and submitters for their involvement in the process.