

**BEFORE THE COMMISSIONERS ON BEHALF OF
THE OTAGO REGIONAL COUNCIL**

Consent No. RM18.345

BETWEEN

**LUGGATE IRRIGATION
COMPANY LIMITED AND LAKE
MCKAY STATION LIMITED**

Applicant

AND

OTAGO REGIONAL COUNCIL

Consent Authority

BRIEF OF EVIDENCE OF MURRAY NEIL FROST

**GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN**

Solicitor to contact: Bridget Irving
P O Box 143, Dunedin 9054
Ph: (03) 477 7312
Fax: (03) 477 5564
Email: bridget.irving@gallowaycookallan.co.nz

BRIEF OF EVIDENCE OF MURRAY NEIL FROST

1. My name is Murray Neil Frost. I am a director of Luggate Irrigation Company Ltd (“LIC”) and the entity I represent holds a 10% shareholding.
2. My background includes degrees in mathematics and commerce, Otago University. I am a Chartered Accountant and retired partner of Deloitte.
3. My accounting background and interest in property has enabled me to successfully manage the development of a number of residential subdivisions, mainly in the Central Otago area.
4. We purchased the homestead block of 380 ha off Colin Harvey, Lake McKay Station, last year and have instructed the appropriate consultants to prepare documentation to enable an application to be made to subdivide part of the property for residential use. Luggate township adjoins the southern boundary of our property meaning that our property is a logical extension of the town.
5. Applications of this type can be very costly and we expect to spend in the order of \$400,000 just in the application process.
6. While part of the development is likely to be consented within 2 years, it is likely that the project will take 5-10 years to get all the required subdivision and land use consents, and then be in a position to exercise the LIC water permit. However because the existing deemed permits expire in 2021, we do not have the opportunity to simply wait until all of the land use consents are in hand before applying for the necessary consents for domestic water supplies. The ORC’s “sinking lid” policy framework for primary allocations means that if the domestic supplies are not factored into the replacement consents now, that opportunity may be lost forever.
7. To actual develop the property will require significant investment and from a practical point of view, will be staged.

8. Successful development requires preparation of consent applications, processing that application with appeal periods to factor in, engineering design, tendering, construction, sale of sites, and lastly new owners building homes.
9. Some new owners may not build for some time because of competing needs, retirement plans, and simply funding constraints.
10. A 10 year consent period is simply unworkable as by then we might have incurred many millions of cost and still have 100 sites unsold/undeveloped, and therefore not using water.
11. A 25 year consent period would be reasonably efficient but a 35 year period more practicable.
12. I am aware that section 14 of the Resource Management Act enables an individual to take water for their own domestic needs. Those needs are effectively exempt from the primary allocation limit and the need to comply with the minimum flow. I have elected not to use that approach for my proposed development. A comprehensively planned and engineered community water supply scheme cannot sensibly be excluded from the environmental limits for the catchment because that would undermine the integrity of the minimum flow and create uncertainty about how the scheme is to be managed with other water users within the primary allocation. So I have instructed LIC's consulting team to treat the domestic supply as part of the primary allocation, with the exception that we will, of course, need to take water outside of the irrigation season.
13. The Commissioners issued questions to the section 42A report authors. Question 4 addresses the domestic supply for 250 households. The question is whether the allocation should be contingent on gaining subdivision consent or zoning for the development. My answer to that question is "no". In a practical sense the allocation is contingent since it will not be able to be exercised until there is a residential development that has all the necessary RMA consents in place. However there is a real "chicken and egg" dynamic here. It is likely that, as part of the subdivision consent process, I will

be required by the Queenstown Lakes District Council to produce the water permits that enable the domestic supply scheme to proceed. If a suitable supply cannot be demonstrated, then obtaining the necessary subdivision and land use consents will be problematic. So something has to go first.

14. If the Commission is concerned that the allocation might be used elsewhere if not for the development I propose, then I would be content with a condition that required the 8 l/s domestic water supply allocation to be used only within the Luggate catchment. However I do not see any good reason why LIC could not utilise the water for irrigation prior to it being required for domestic supply purposes. That water is likely to be extremely useful in the period leading up to commissioning of the network efficiency upgrades.

CONCLUSION

15. There will be significant financial commitment to this development which will not only ease housing pressure in the district, but also inject significant funding into the community. We need a consent period of at least 25 years, and preferably 35 years, to make that work effectively.

Date: 8 October 2019

Murray Neil Frost