

29 August 2019

Otago Regional Council
Private Bag 1954
Dunedin

submissions@orc.govt.nz

Dear Sir/Madam,

RM 18.345 Luggate Irrigation Company Limited and Lake McKay Station Limited

I refer to the limited notification of application RM 18.345 by Luggate Irrigation Company Limited and Lake McKay Station for water permits to take and use surface water from Luggate Creek and Alice Burn for the purpose of irrigation, stock water and communal domestic supply, replacing existing authorisations to take and use water.

Please find enclosed a submission by the Director-General of Conservation in respect of this application. You will notice the submission seeks that the application as currently proposed be declined. The Department considers that the application does not adequately avoid, remedy or mitigate the adverse effects of the proposed activity. The submission identifies the Director-General's concerns in greater detail.

Please contact Trudy Anderson in the first instance if you wish to discuss any of the matters raised in this submission (tanderson@doc.govt.nz).

Yours sincerely



Mike Tubbs

Operations Manager - Central Otago

Form 13: Submission on publicly notified application concerning resource consent

Resource Management Act 1991

To: Otago Regional Council

Name of submitter: Director-General of Conservation

Applicant: Luggate Irrigation Company Limited and Lake McKay Station Limited

Locations: Luggate Creek and Alice Burn

Description of activity: To take and use surface water from Luggate Creek and Alice Burn at various locations for the purpose of irrigation, stock water and communal domestic water supply.

Application number: RM 18.345

My submission relates to: The whole application

My submission is: I oppose the application in its entirety.

The reasons for my submission are that:

Overallocation:

The Regional Plan: Water for Otago sets a primary allocation in Schedule 2A, in accordance with Policy 6.4.2(a) of 500 litres per second for all takes from the Luggate Creek catchment. It is apparent that the combined water takes in the catchment that can be considered as primary allocation significantly exceed the primary allocation for the catchment specified in Schedule 2A.

Section 3.2 of the application details the current maximum instantaneous rates of take from metered data, to outline the existing use of water under the existing authorisations. This information also provides details on planned future additional allocation demand based on some planned future development. From this information the proposed take will be in excess of demonstrated use over recent irrigation seasons.

Increased water take from within the primary allocation over and above current take is not supported as the catchment is deemed to be overallocated currently, and additional take as is proposed by this application will increase the frequency and the duration of the flow in Luggate Creek being held at or about minimum flow adversely affecting instream values and natural character of the stream.

In accordance with Policy 6.4.2A the Council should limit the grant of water from within the primary allocation to no more water than actual use based on metered data. Any future development of irrigation and additional taking of water as is proposed in this application should be limited to supplementary allocation with a corresponding minimum flow restriction. Alternative water sources e.g. Clutha River should be considered as a more reliable and sustainable water source for future development.

Lack of definition of freshwater fish values:

Schedule 1A of the Regional Water Plan identifies the Luggate Creek catchment as a significant habitat for koaro. As stated in the application, eels are also known to be present in this catchment and the Department is also concerned about effects on natural character of the waterways, koura, freshwater mussels and diverse invertebrate communities which are relevant to this catchment.

It was noted by DOC in pre-application consultation that there was limited data from fish surveys in the catchment, in particular the Alice Burn tributary where a large proportion of the take is proposed to occur, and that more specific information and site specific surveys should be undertaken to ensure the freshwater fish values are accurately described and appropriate mitigations implemented to protect values identified.

As detailed in section 4.2.3 of the application the limited fish surveys from the NZ Freshwater Fish Database is relied upon to make assumptions about the values affected by the proposed takes. This is concerning given the large take relative to flow proposed from the Alice Burn, and that only a residual flow maintaining visible flow connection to the Luggate Creek mainstem is proposed.

There needs to be greater definition of the fish values present in the Alice Burn through specific surveys and an appropriate residual flow set for these takes based on the values identified and to protect those values. Without this the effect of the proposed take on indigenous freshwater fish species and habitat is uncertain.

Fish Screening Requirements:

The application, at section 4.5 discusses the proposed fish screening of the intakes. No fish screen is proposed for the intake in the upper Alice Burn. The lower intakes are not proposed to be screened

but a screen is proposed to be installed part way down the water race where bywash is to be discharged back to the Creek.

Agreement to not screening the upper intakes should be subject to confirmation of the fish values of the upper catchment to ensure that indigenous species are not drawn into the irrigation network.

Agreement to the proposed screening of the water race as opposed to the lower intakes themselves can return fish safely to the natural water body.

Minimum and Residual Flows:

I consider that it is appropriate that all the takes proposed under this consent are subject to the Luggate Creek minimum flow set in Schedule 2A of the Regional Water Plan for both winter and summer. As discussed above only water actually used under the current scheme shall be considered as primary allocation and be subject to the minimum flows for primary allocation. Future increased take over and above current actual use should be subject to lesser reliability under a supplementary allocation that provides for flow variation and protects the primary allocation.

Residual flows downstream of the tributary intakes should be set to protect the instream habitats downstream.

Resource consent duration:

At section 3.3.1 of the application the requested term of consent is discussed. A 35-year term is proposed to commence from the 2nd October 2021 being the expiry of the existing mining privileges and deemed permits.

I consider that the term of consent is unjustified and excessive. A shorter duration of consent (ten years) will enable a more regular review of consented takes in the Luggate Creek catchment and will be consistent with the planning cycle so that there is a greater opportunity for these resource consents to be tested against the objectives and requirements of the Regional Water Plan, the Regional Policy Statement and the National Policy Statement for Freshwater Management.

The commencement of the resource consent should be from the date of grant and not any future date so that appropriate mitigations through consent conditions are required to be enacted immediately e.g minimum flows.

Statutory Planning:

National Policy Statement for Freshwater Management 2014:

- The proposed activity is contrary Objective B1 in failing to safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems; and

- the proposed application is contrary to Objective B2 in that it does not avoid further over-allocation of freshwater.

Otago Regional Policy Statement 1998:

- The proposed activity is contrary to Objectives 6.4.1, 6.4.3, 6.4.4 and their corresponding policies

Proposed Regional Policy Statement 2019 (partially operative)

- The proposed activity is contrary to Objective 3.1 and corresponding Policies 3.1.1, 3.1.3, and 3.1.4

Regional Plan: Water for Otago 2012:

- The proposed activity is contrary to Objective 6.3.1, and corresponding Policies 6.4.1, 6.4.2, 6.4.2A, 6.4.3, 6.4.5 and 6.4.7

Decision sought:

1. That the application is **declined**; or
2. That should resource consent be granted, that appropriate conditions be imposed to sufficiently address all the matters set out in this submission.

I do wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.



Mike Tubbs

Operations Manager – Central Otago

Department of Conservation

(Acting pursuant to delegated authority)

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Date

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington