

**BEFORE THE CANTERBURY REGIONAL COUNCIL**

**Under** the Resource Management Act 1991

**In the matter** of applications by **DUNSTAN PEAKS LIMITED** (the Applicant)  
for:

A water permit filed under CRC011361;  
A discharge permit under CRC011362;  
A land use consent filed under CRC011363;

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**MEMORANDUM IN RESPONSE TO THE 34<sup>TH</sup> MINUTE OF THE  
COMMISSIONERS ON BEHALF OF DUNSTAN PEAKS**

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1. Dunstan Peaks Limited ("DPL") appreciates a further opportunity to provide greater detail to the Commissioners on the suite of applications covering the three properties known as Twinburn, Dunstan Peaks and Clifton Downs.
2. The information set out in this Memorandum will respond to the concerns raised by the Commissioners in paragraphs 2 to 6 of the 34<sup>th</sup> Minute of Commissioners. In this memorandum where the applicant is referred to, it will be denoted as DPL. References will be made to the 3 individual properties in the course of this memorandum and attached reports. Dunstan Peaks is one of the three properties, and accordingly a reference to Dunstan Peaks will be relating to the irrigation proposals for that particular property (Refer to the property descriptions in the landmark plan attached as Appendix A).

### **Introduction**

3. From DPL's perspective the suite of consents applied for must be seen in the context of applications for renewal consents in 2001.
4. Those consents were framed as renewals of the historic consents for the properties attached as Appendix F.
5. During the course of the hearing it became apparent that the consents applied for that they would not meet the standards, now prescribed in the Waitaki Plan – and to those water quality criteria set out in the NRRP.
6. These matters were referred to in the officers' reports pursuant to s 42A and in relation to the further information provided by the applicants – on which the Commissioners now seek further detail.
7. In addition, the principal issue for DPL was that while the consents had been notified for the continuation of their historic irrigation operations, the annual volumes were set out based on spray irrigation annual volumes. The effect of this would have meant that the continuation of presentation of evidence based on the notified method of irrigation

(border-dyke) would have been unworkable and impractical having regard to the overall water efficiency criteria in the Waitaki Plan. (Ref McCabe: Dunstan Peaks Station: Clarification by Haidee McCabe of Revised Irrigation layout uploaded from ECan website on 15 October 2010.)

8. The Applicant and its advisors therefore made the decision to convert to spray systems on the overall properties of DPL and the annual volumes notified allowing that to occur.
9. It has done so in the realisation that this results in changes to the method of irrigation and the farm specific layout for irrigation.
10. The applicant accepts that the applications would have been drafted differently to avoid the need for these associated changes had there not been the long delay between the application and the hearing date. However the issues, particularly for renewal applications, as to the reasons for the lengthy delay in the hearings process have already been well traversed and will not be repeated here.
11. In addition there was a change of consultant following the initial presentation of the DPL application. While DPL relied on the advice of its former consultant, with respect to irrigation type, annual volumes, and the placement of structures on the property, DPL also took on the advice of its advisors following Mrs McCabe's appointment to require the consent to be re-presented so as to achieve an irrigation outcome which:
  - 11.1 Had workable irrigation methods which were consistent with the annual volumes and flow regimes applied for
  - 11.2 Reflected the water efficiency requirements of the plan
  - 11.3 Gave consideration to localised water quality concerns
12. The 42A officers endorsed this approach.

13. The scale, intensity and efficiency issues associated with the changes will be addressed elsewhere in this memorandum but it is submitted that in the context of the historic applications that DPL is doing nothing different than other applicants have done to:
  - 13.1 Redefine the mode of irrigation to align to water efficiency guidelines set out in officer reports;
  - 13.2 Reconfigure the irrigation within the DPL property boundaries;\_and
  - 13.3 Provide for a 5 year conversion programme whereby there would be an ability to continue with existing systems – as spray irrigation is practically implemented.
14. Whilst the information contained in this Memorandum addresses the site specific irrigation issues arising the 34<sup>th</sup> Minute of the Commissioners, DPL strongly suggests that it would be of assistance to the Commissioners to undertake a site visit to the property – as it has done so with respect to some other properties which have consents before the Commissioners.
15. It must be stated that continuation of irrigation by DPL is vital to the overall viability of these three properties. The renewal of irrigation rights has been made more critical following tenure review and the surrender of high hill country back to the Crown. Viability affects the livelihood of the owners and their families.
16. They wish to convey that the decision to change systems within the confines of the DPL applications is not motivated by the need to “grab more resources” for themselves but to simply end up with consents which are practical to implement on the three properties which they farm. The decision to convert to spray systems and implement their FEMP requirements comes at significant cost.
17. The issues of cost and implementation are of lesser importance to the Commissioners. However, it goes to demonstrate that the issues for DPL are again directed at a workable system – rather than the

continuation of an historic proposal which neither acknowledged the officer concerns nor would have been workable within the annual volume parameters of the notified applications.

### **Overriding principles for changes to irrigation systems**

18. It is accepted that changes have been made associated with Mrs McCabe's earlier report providing clarification of the renewal of applications for DPL. The principles underlining these changes are:

18.1 Keeping all irrigation within the properties notified under the DPL notification for CRC011361, CRC011362 and CRC011363.

18.2 Reconfiguring the method of irrigation to spray systems within those three properties but within the boundaries of the existing irrigation i.e the irrigation does not extend further south than the existing irrigation on Twinburn ( the southern most property in the DPL group) nor further north on the Clifton Downs (the northern property within the DPL group). It is accepted that the irrigation areas on the three properties are adjusted.

18.3 Not extending the overall irrigation area of DPL set out in the notification.

18.4 Reducing the instantaneous rate of take from the current irrigation consents (being renewed) following conversion to more efficient irrigation methods

18.5 Ascribing certainty to the conversion process so that all irrigation development is completed within a period five years from the grant. Ongoing irrigation can be managed on a property by property basis.

18.6 Changing irrigation method so as to ensure compliance with NRRP requirements for irrigation efficiency.

- 18.7 Introducing the piping of irrigation to the Clifton Downs pivots – again for water efficiency reasons and to utilise natural gravity.
- 18.8 Using the same water from the same streams as set out in the notification but moving the irrigation further downstream – thereby lessening the impact on the Omarama Stream in the upper reaches.
- 18.9 Increasing overall water quality by the conversion to spray systems and ensuring buffer areas on stream boundaries within the irrigation area.
- 18.10 Ensuring that on conversion, border dyke bywash water will not be diverted into the Augmentation race, which subsequently enters Omarama Stream.

#### **Order of documentation**

- 19. Response to the 34<sup>th</sup> Minute is made as follows:
  - 19.1 General introductory comments in this Memorandum.
  - 19.2 The report by Mrs McCabe of Irricon Resources on the three properties. The report and associated tables correspond to the three individual properties of Twinburn, Dunstan Peaks and Clifton Downs.
  - 19.3 A series of maps are completed by PGG Wrightson, (Mr Jonathan Simpson) Refer below.
  - 19.4 A series of photos showing the existing irrigation intakes and other matters relating to the current proposal.
  - 19.5 A revised farm environmental management plan Appendix H.

- 19.6 A legal opinion in letter form attached to this Memorandum dealing with the overall issues of scope and jurisdiction.

**Aerial photographs and maps**

20. Attached to this Memorandum are a series of five aerial photographs of the whole of the DPL properties.
21. Appendix A is a landmark plan showing the delineation of the three properties within the DPL group and labelling the principal streams for servicing the property, being:
- 21.1 Little Omarama Stream.
  - 21.2 Omarama Stream.
  - 21.3 Middle Gully.
  - 21.4 Twaddles Creek.
22. "Appendix B" is the irrigation historically implemented from the consents held on the property marked as follows:
- 22.1 Existing areas of border dyking (outlined in yellow).
  - 22.2 Existing wild flooding (outlined in blue).
  - 22.3 Existing spray irrigation (outlined in pink).
23. The existing irrigation also marks the take point for the stock in domestic supply to both Twinburn and Dunstan Peaks. Note the stock and domestic water is taken in reliance on S 14(3)(b) of the RMA
24. "Appendix C" is the proposals as notified.
25. "Appendix D" is the current irrigation proposal.

26. "Appendix E" is the command areas associated with the proposed irrigation. The denoting of a command area is necessary to accommodate variations in layout of the spray systems (between guns and centre pivot) but the areas (hectares) specified in the Irricon reports will not vary.
27. Note the command areas take account of providing for buffer margins on the streams at Twinburn, Dunstan Peaks and Clifton Downs so that no irrigation shall be undertaken within 5 metres of a stream boundary.
28. Note, these aerial photographs show all of the irrigation on all three properties on one aerial photograph. Comparing earlier evidence, this is the first map which shows the inter-relationship between the takes and use on all properties served within the DPL group by irrigation takes from the Omarama Stream , Little Omarama Stream, and Twaddles Creek.
29. On an overall basis Appendix D and E demonstrates the movement of irrigation away from the Twinburn and DPL property to further develop the irrigation at Clifton Downs. Put simply the irrigation on Twinburn and Dunstan Peaks is reduced from that notified on conversion to spray – with a corresponding increase in the irrigation at Clifton Downs.

#### **Alignment of irrigation to property boundaries**

30. The original application (as notified) applied for three irrigation consents which packaged all of the take and use consents under application CRC011361 included in electricity generation consent in CRC011362.
31. As part of the take and use notification, there was a electricity (microhydro) application for the use of the bywash water associated with the border dyke system. With the conversion to spray this aspect of the application is no longer required – or for that matter feasible, as there is no bywash.

32. The second consent dealt with all of the discharge consents and the third application CRC011363 dealt with the s13 requirements to disturb the bed of the river at Twinburn and Dunstan Peaks. The revised proposal is set out by Mrs McCabe. The original public notification is set out as "Appendix G". This Appendix adds in red the properties which we consider are specific to each individual take and use. Cross referencing of the proposed irrigation to the notification is set out in the Irricon table.
33. The notification of all of the DPL take and use applications in one umbrella application leads to some confusion. The purpose of this explanation is to divide the applications so that they are described on a property specific basis. From DPL's perspective the outcome they are seeking from this process is for consents to be issued on a property by property basis rather than an umbrella consent for the whole of DPL.

#### **DPL**

34. DPL is the umbrella company for all three properties. The irrigation proposal as notified and the current irrigation proposal is fully within the DPL boundary. No irrigation is occurring from these takes outside the properties set out in notification as Twinburn, Dunstan Peaks and Clifton Downs.

#### **Conversion**

35. This Memorandum clarifies that based on the renewal application DPL requires a period of five years to convert from the existing spray border dyke systems operated at present.
36. In the Irricon report, the flow rates provided for the proposed irrigation following conversion are the flow rates for a spray system. However, for the conversion period the higher flow rates are applied for – to be consistent with a border-dyking operation. These higher flow rates would be conceded on conversion to spray for each respective take.

37. There is no corresponding change in the annual volumes set out in the report by Irricon because, as stated earlier, the annual volumes in the original consent were calculated to accord with spray volumes. These volumes were determined purely on 600mm/ha/year which is equal to or less than what WQN9v2 would allocate.

### **Tenure Review**

38. Clifton Downs has always been a freehold property. However over the "life" of these consent applications, tenure review has been undertaken on the other two properties.
39. This has resulted in virtually all of the Twinburn property being purchased by the Crown on 1 February 2008 – apart from 344 ha being retained by DPL comprising the irrigated area and two small hill blocks.
40. Dunstan Peaks freeholding has just been finalised resulting in an overall reduction in the farmed area from 5,376 hectares to 3,216 hectares. The irrigation area is within the freeholded area. The effective surrendering of over 2,000 hectares is based on an acknowledgement that the balance land is appropriate for intensified farming practices (subject to the constraints of the Waitaki District Plan and the physical constraints of the property).
41. The tenure review has been an open process whereby public interest groups and the Department of Conservation have been actively involved.
42. Whilst not directly related to the take and use applications, from the Pattersons' perspective the freeholding as a result of tenure review was predicated on the basis that that land released from Crown ownership could be developed. The Pattersons outlined the same irrigation proposals to the tenure review process indicating the manner in which their land development of the balance land would be intensified.
43. Tenure review has had more direct implications for this hearing. The retirement of hill and high country property on Twinburn and Dunstan

Peaks has meant that land (650 ha) which used to be fertilised, is no longer. As a corollary fertilizer applications on these properties have decreased by 30%, with consequential implications for nutrient management in the Upper Catchment areas of Omarama and Little Omarama Stream.

#### **Nature of this response Memorandum**

44. The description of the overall activities as set out in paragraph 5 of the Commissioners' Memorandum are responded to on a property by property basis for each of the matters listed in paragraph 6(a) to 6(i). The table attached to and forming part of the Irricon report summarises the explanation. This memorandum summarises the overall key differences – whereas the Irricon report explains the key differences in relation to the individual takes specified in the notification.
45. Matter 6(i) relating to the jurisdiction to consider the applications and grant consent is set out in the letter attached to this memorandum as Appendix **VVV**. This is responded to for all three farm properties in one letter.

#### **FEMP reports and Conditions**

46. The FEMP report for DPL as attached to this response updated to reflect the irrigation areas.
47. The 34<sup>th</sup> Minute has not requested an update of proposed conditions which all UWAG applicants have supplied to Commissioners. This can be completed within one week to ensure consistency with this report. The Commissioners are requested to advise DPL whether the revised conditions would be of assistance. We have presumed this to be the case and are preparing accordingly.

#### **Site Visit**

48. The applicant appreciates the ability to make this response and to further clarify the issues. Nevertheless they strongly recommend that

the Commissioners take time to undertake a site visit to fully understand the contouring and efficiencies associated with irrigation in the manner set out in this Memorandum and the earlier evidence provided by DPL.

49. DPL would make available where possible, an independent person to guide the Commissioners over the properties and point out the various take and discharge points associated both with the notified proposal and the current proposal.
50. If the Commissioners are unclear on any issues before them, we strongly suggest the hearing is reconvened so as to be able to discuss this report with the authors and DPL. This is considered the best method of gaining a full appreciation of this application. We appreciate that other parties have not had this opportunity but the change in consultants, it is submitted, would justify this approach.

Dated

2012



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Solicitor for the Applicant