

**DIRECTIONS OF THE COMMISSIONERS
Cold Gold Clutha Limited**

Introduction

- [1] Kirstyn Royce, the Section 42A Report author for CODC and QLDC, for what we consider to be reasonable personal reasons, has asked that we provide any questions arising from our reading of her Section 42A Report prior to the hearing. We understand that written answers to our questions will be provided prior to the hearing and we ask the Hearing Administrator to post both this Minute and Ms Royce's answers on the relevant ORC webpage.
- [2] Our questions are attached.
- [3] We may of course have further questions for Ms Royce arising from our reading of the applicant and submitter evidence that is to be provided in due course. We will ask any such questions at the hearing.
- [4] We use paragraph numbers [##], page numbers, or recommended condition numbers (##) as our reference points.
- [5] Should Ms Royce require clarification of any question she may do so by way of email to Hearing Administrator marked for our attention.

Questions from report text

- [21] The operational area within CODC's jurisdiction refers to the area between the Lindis River Confluence and Queensbury (see Figure 4). However, Figure 4 is an exclusion area south of the Lindis Crossing.
 - Can you please confirm that the operational area extends from the CODC/QLDC boundary downstream to the Lindis River crossing?
- [41] Can you please:
 - (a) direct us to where in the QLPDP it classifies the Clutha/Mata-Au as an ONF, and
 - (b) advise us what the landscape classification is under the QLODP?
- [47] What is the status of the QLODP Assessment Matter 5.4.2.3, Assessment Matters General, xv Discretionary Activity Surface of Lakes & Rivers?
- [56] & [57] You refer to the applicant not specifically applying to breach Rule 21.15.8 and Rule 21.15.11 of the QLODP.
 - Given the mooring requirements of the dredge and the use of a jet boat to service the barge, do you consider the proposal can operate without these consents?
- [58] You refer to the applicant not applying to breach QLPDP Rules 21.5.7.1, 21.5.7.2 and 25.5.7.3 relating to lighting and glare.
 - Given the hours of operation do you consider the activity can either:
 - (a) comply with those rules;
 - (b) or operate without any consents necessary under those rules?
- [96] Can you please provide a map or aerial photograph showing the location of the consented building platforms?
- [127] What do you mean by the second sentence?
Are you recommending that, as provided for in RMA s41C(3,) we request the applicant to provide an expert assessment of likely compliance with the respective district plan permitted activity noise standards?

- [146] What hydraulic effects did you have in mind?
Are you recommending that, as provided for in RMA s41C(3), we request the applicant to provide an expert assessment of potential hydraulic effects from the Rongahere Road slipway?
- [152] Is it appropriate to include a condition that requires subsequent 'approval' of a consent authority or should any such condition instead require 'technical certification' from the consent authority?
- [173] Is it reasonable for us to assume that most (if not all) of the Ngai Tahu concerns (apart from potential effects on the Te Rua Tupapaku wahi tupuna and ara tawhito) relate to instream matters that fall within the jurisdiction of the ORC?
- [196] Can you please clarify what you mean by "other water users"?
- [202] Are you saying that we need to assign little or no weight to your Table 3 assessment?
- [203] You refer to QLPDP clause 3.1B 'Interpretation and Application' of Chapter 3 Strategic Directions and conclude that a separate assessment of the Chapter 3 provisions is not required because the lower order objectives and policies are intended to give effect to the Strategic Directions. Mr Sycamore provided an assessment of these provisions.
- How do we reconcile this approach with the directions set out in Clause 3.1B2?
- [221 – 226] To what extent is the NPSFW relevant to our consideration of the QLDC and CODC land use consents?
- [page 56] Second column. Policy 6.3.3.1 (and various other Plan provisions) refer to subdivision and development.
- Can you please clarify if 'development' is defined anywhere in the relevant provisions?
- [page 57] Objective 6.3.5, Second column. Policy 6.3.5.4 seeks to provide for appropriate commercial activities on the surface of water bodies. This policy as set out in the QLPDP is followed by italicised text referring to a series of Plan provisions.
- In deciding what constitutes an 'appropriate' commercial activity on the surface of water, what is the purpose of these references?
- [page 57] Objective 6.3.5, third column, second paragraph. You advise '*providing the panel are satisfied that commercial activity is of a scale and nature which is appropriate, then the proposal is consistent with this objective and policy*'.
- In light of your response to the page 57 question above, what is your opinion on whether the scale and nature of the proposal is 'appropriate'?
- [page 61] Policy 21.2.12.6, second column relates to recognising and providing for maintenance and enhancement of public access to and enjoyment of the margins of the River. Page 62, first paragraph last sentence provides your assessment stating '*The proposal is considered to reasonably maintain public access surface (sic) and margins of the District's lakes and rivers.*'
- What is your opinion on whether the proposal will maintain and enhance the enjoyment of the margins of the river?
- [110], [182], pages 52 (third column, fourth paragraph) and 54 (third column, last paragraph).
- The text appears to contain errors or be incomplete. Can you please provide amended wording?

Questions from recommended conditions

- (1) Can the bullet point list be streamlined to assist with enforceability of the condition?
- (3) Can conditions bind third parties – in this case the persons operating the dredge?
- (8) Should there be a point of reference for the noise limits and a cross reference to NZS6801:2008 and NZS 6802:2008?
- (9) Can you please clarify if this list includes all commercial operators operating on the river?
- (10) What do the following terms mean and can they be expressed with greater certainty:
 - “in the vicinity of the operation”*
 - “restricted access areas”*
 - “may need to be erected”*
 - “large sign”*

Should the condition refer to “public launch facilities”?
- (13) Is this condition reasonable given that anglers can simply relocate to a different part of the river?
- (14) In terms of adjoining properties, should this be limited to properties containing occupied dwellings?
- (14) With reference to our question on paragraph 58 of your Report, would the last sentence of condition 14 ensure compliance with the relevant rules?
- (15)(a) What is the relevance of the term “*each 1,500 metre section*”?
- (17) Is this condition workable given that, as explained in your [123], “*The dredge then moves approximately 200 m downstream and works back upstream towards the anchors while the dredging is occurring*”?
Is this meant to be an annual work limit?
- (20) How are tributaries defined or have they been mapped by the applicant (there may be a large number of unnamed tributaries)?
- (23) Do you mean a horizontal or vertical setback?
How does this relate to Advice Note 1?
- (24) Is the last line meant to include “avoid damage” to any bridges, dams or other structures?
- (25) Is there a sub-paragraph missing (“d” and “e” are on the same line)?
- (26) Should this condition be recast to require the consent holder to submit the proposed fuel tank location to the consent authority for technical certification that necessary locational criteria are met, with any such criteria to be specified in an additional condition?
- (30) How do you envisage (b) and (c) being complied with in practice, given that the slipway will presumably comprise a graded, sloping, earthen pathway that leads into the river?
- (34) Should the review opportunity refer to the ‘granting’ of consent or the ‘commencement’ of consent?

Advice Note 3 Should this be a condition of consent?

Advice Note 4

- (a) What do you mean by "*all materials*"?
- (b) Does the word "*containers*" refer to the shipping containers?
- (c) Should this be a condition of consent?

Photograph of slipway path Are any conditions required (and would we have scope to impose them) in association with the yellow slipway path, for example conditions relating to erosion and sediment control or vehicle-initiated dust?

General query:

- Does the recessive colour of the barge need to be required by way of a consent condition?



Rob van Voorthuysen
Hearings Commissioner on behalf of the Hearing Panel
9 October 2023