

Talking Notes of Submitter – Duncan Kenderdine

13 Nov 2023

Good afternoon

I intend to highlight components of my Submission dated 5 November 2023, in the order in which that submission is presented. I am happy to take questions at the end or as we go.

I have read the Landscape Assessment Peer Review Report (noted as Peer Review from here on) and the Opening Submissions of Counsel on behalf of the Applicant.

I have also read with interest the Submissions of Anthony Ward-Homes, Esther Water, Marilyn Duxson and John Harris, Kim Folgelberg and the submitters on behalf of Aukaha.

Landscape

- We can all agree that the Clutha Mata-Au is an Outstanding Natural Feature / Landscape and I agree with both the Landscape assessment and Peer Review to that point.
- Confused to the weight placed on the experience of 'landscape' by a driver of a vehicle. I note the word vehicle does not occur in either the RMA in a landscape context or Te Tangi a te Manu Aotearoa¹.
- Whether or not an ONL is seen from a car does not mean that it does, or does not, exist. Nor that negative effects on the ONL are mitigated by the fact someone in car may not experience it. This is where my disagreement with the Landscape Assessment starts.
- The Peer Review states on a number of occasions (para 42,45,47,53,65) that the visual effects would be moderate to low, to moderate to high, thus pushing the activity into the context of 'Minor' or 'More Than Minor' on my reading of the scale. It also highlights that the activity could occur in an area or view shaft for more than a year – that is not what most people would call "temporary".
- The Peer Review and the videos provided by submitters highlight the activity as being better suited to an industrial zoning than an Outstanding natural Landscape,² albeit in muted colours.
- While the Legal Submission infers that a lack of information can be appropriate³, I would submit that the hurried nature of both the Landscape Assessment and the Peer Review has been a challenge for both authors. Had the Landscape Assessment been able to have the chance to view the river from the river itself or the number of houses adjacent to it⁴, would the assessment of impact of negative effects

¹ Aotearoa New Zealand Landscape Assessment Guidelines, Tuia Pita Ora, NZIAL, July 2022.

² "... is effectively a machine room shed and control room. ." Richard Denney, Landscape Assessment Peer Review Report, 10 Nov 23. Para 6

³ Opening Submissions of Counsel, Bridget Irving / Hannah Perkin, 8 Nov 23, para 33

⁴ Evidence of Jessica McKenzie (Landscape Architect), Para 75 "...dwellings and associated domestication are located on the upper terrace and are generally set well back from the river. views towards the surface of the river are relatively limited ..."

been closer to that of the Peer Reviewer? And would those of the Peer Reviewer been higher had they had that opportunity?

- I submit that both the Assessment and Peer Review to be incomplete until they have had that opportunity. Access to houses and private property can be provided this afternoon or tomorrow if that assists the Commission.

Noise in Landscape being compliant

- noise impacts not properly addressed in Landscape Assessment and Peer Review⁵.
- Conversely evidence presented by the Applicant shows this to not be the case – discussed further below
- request the Commission test impact of including non-complying noise within s42A and Landscape experts' review.

Cultural Attributes

- Inference from Applicants legal team that if there is no physical effect then there is no reference point for consideration of metaphysical effects⁶. As the Peer Review points out some effects will be more than minor, if only temporarily and of sufficient impact to recommend additional exclusion area⁷. Shows there are physical effects and hence consideration of impact on cultural attributes is required to be weighted sufficiently.
- Note also the designation of Wahi Tupuna in QLDC, a higher bar perhaps?

Recreational values

- Disagree Peer Review "few opportunities for safe swimming" ⁸
- Note Peer Review suggestion that other dredging to continue at same time. Assume no other dredging and wonder if not considered by others perhaps? Is Applicant undertaking to be only dredge on river during consent?
- "limited" access, cf Wanaka Lakefront? Scientific Reserve approx. 4km river frontage, often cars at the Sandy Point Walk
- Wholeheartedly disagree with Legal Submission on assessments of effects re CODC – "*likely impacts of the proposal versus multiple smaller dredges are similar*⁹." I haven't seen evidence on that specifically. See my submission para 58. Economic argument can be ignored as 4-5 dredges operating would create similar level of employment.
- Clearly doesn't meet the test of CODC 5.8 *Environmental Results Anticipated* – see Submission of Anthony Ohau Ward-Holmes, re line height and length as linked to

⁵ Richard Denney, Landscape Assessment Peer Review Report, 10 Nov 23. para 29

⁶ Opening Submissions of Counsel, Bridget Irving / Hannah Perkin 8 Nov 23 para 35-40.

⁷ Richard Denney, Landscape Assessment Peer Review Report, 10 Nov 23 para 69

⁸ Ibid para 21 dot point 9

⁹ Opening Submissions of Counsel, Bridget Irving / Hannah Perkin 8 Nov 23 p9 para 23 b) i)

water force. 5.8.1 *Free and unrestricted passage of vessels on the water surface will continue.*

- Also Kawarau, "*Commercial Boating Activity shall not take place...*"¹⁰ also a river upstream of Lake Dunstan and also Outstanding
- Legal Submission states "... *no substantial proposal being progressed ..*"¹¹ for the walking and cycling trails. I have a copy of the completed easement between one of my neighbours, the CODC and the Southern Lakes Trails Trust, compiled by the law firm of Gallaway Cook Allan. I understand that all of the private property access between the current end of the trail downstream from the Nook and Smiths Way has been agreed in this manner, which has been quite an exercise and good progress. As an example of positive community engagement, we don't need to give them approval yet they came and visited to discuss routes, options and issues.

ONF/ONL

- CODC "4.3.2 Objective – Outstanding Natural Landscapes and Outstanding Natural Features, and Land in the Upper Manorburn/Lake Onslow Landscape Management Area
- *To protect the Districts outstanding natural landscapes and outstanding natural features, and land in the Upper Manorburn/Lake Onslow Landscape Management Area (including landforms) from the adverse effects of inappropriate subdivision, use and development."*

Operational Constraints and Risk

- Video of barge showing mooring lines well above water – significant hazard to recreational users.
- Note "*hard to see and hard to hear*"¹² is the recreational users as viewed from the Barge, not the other way around.

Noise

- Of note of the receiving environment is that neighbours have recently tested and daytime level is approx 40dBA, and night time is towards the limit of the recording device – in the order of 25dBA.
- Of note "*balance of probabilities*"¹³ argument raised in regards to information provided. Noise data provided by Applicant confirms houses within 150m of operating dredge observing noise in excess of CODC, not QLDC level rules
- References to existing noise creating activities in the environment; examples I would raise in our areas are:

Mechanical Crop harvesting - short duration (a matter of 3 – 4 days),

Bird guns – random, not consistent, rarely longer than 4 weeks,

Frost fans – short duration rarely more than a few hours, sporadic days

Jet Boats/Jet Skis – very short duration, normally between 10-2 in peak summer days

This is the 'on the ground' existing environment over the last decade.

¹⁰ CODC p5:19 CODC DP Water Surface and Margin Resource Area

¹¹ Opening Submissions of Counsel, Bridget Irving / Hannah Perkin 8 Nov 23, para 29

¹² Submission of Duncan Kenderdine, 5 Nov 23, Para 47

¹³ Opening Submissions of Counsel, Bridget Irving / Hannah Perkin 8 Nov 23, para 41

Conditions discussion

- Scientific reserve exclusion
- Residential property exclusion
- Noise testing, peer review and community engagement
- Duration and activity – haul out when not in use.