

26 June 2020

The Directors
Ripponvale Irrigation Company Limited

[REDACTED]

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Dear Directors

Plan Change 14 - information requested from Ripponvale Irrigation Company Limited

Introduction

- 1 We act for NZ Cherry Corp (Leyser) LP Limited (**NZ Cherry Corp (Leyser)**), the applicant for Plan Change 14 (**PC14**) to the Central Otago District Plan. PC14 relates to land at 144 Ripponvale Road.
- 2 PC14 is currently being heard by Commissioners appointed by the Central Otago District Council. In the course of that hearing questions have arisen regarding access to water for the PC14 site, including access to water from Ripponvale Irrigation Company Limited (**RICL**). The Commissioners have issued Minute 5 which requests that NZ Cherry Corp (Leyser) liaises with RICL to produce confirmation of RICL's position with respect to supply of additional water to the PC14 site via existing or upgraded water raced in the short term and longer term.
- 3 As you are aware, NZ Cherry Corp (Leyser) is an existing shareholder in RICL. The questions posed do not relate to NZ Cherry Corp (Leyser)'s ability to access its current allocation, but to the ability for this allocation/shareholding to be increased in the future so that the PC14 could receive more water than it is currently entitled to. A number of the questions relate to the practical ability of RICL to deliver more water.
- 4 Specific questions are set out below. We understand that a meeting of the RICL board is scheduled for 6 July 2020. We request that the Board consider the questions raised and provide a response by 13 July 2020, as best as you are able on the currently available information.
- 5 We **attach** for your reference:
 - (a) Minute 5 of the PC14 Commissioners;
 - (b) Second supplementary evidence of Ricky Larsen (see paragraphs 10 – 21); and
 - (c) Supplementary evidence of James Dicey (see paragraph 1.7).
- 6 We are available to discuss or provide further clarification as required.

Specific questions

Does RICL take its full consented volume?

- 7 The Commissioners record that Mr Larsen's evidence was that he understands RICL may not currently take its full consented allocation. His evidence also referred to and attached the RICL consent and noted that "The take is subject to abstraction limits including an instantaneous rate, and monthly and yearly allocation limits. A greater volume of water is available in September, October and November, reflecting the higher demand for water for frost fighting in these months." Mr Larsen also stated "I understand that RICL may not currently take its full consented allocation. However the key issue from an operator's perspective is whether more water could be supplied at critical, high demand times."
- 8 Mr James Dacey also gave evidence on this matter, stating that "I have spoken to Mr Tim Jones, who is the manager of the Ripponvale Irrigation Company Limited (RIC), and he informed me that the RIC consent to abstract water was in excess of what is currently being delivered to the shareholders of RIC."
- 9 Please advise whether RICL takes its full consented volume, with respect to both the annual allocation limit, and maximum instantaneous rate and monthly allocation limits.

Scheme infrastructure/race capacity

- 10 The Commissioners further record Mr Larsen's evidence as being "that it may not be possible to supply more water at critical high demand times given the existing race capacity". Mr Dacey also stated that "He [Tim Jones] informed me that additional water is available to shareholders if the infrastructure was upgraded."
- 11 While not specifically referred to in evidence, understand that the duct at Ritchies Road, and subsequent piping of approximately 1,000m of the B race, provides a constraint on the rate at which water can be delivered to properties on the later part of the B race, including the PC14 site.
- 12 Please advise whether additional water could be supplied to the PC14 site through the existing RICL infrastructure at high demand times, without reducing the supply to other shareholders. For the purposes of the following questions, it may assist to identify where any infrastructure constraint occurs (for example, at the intake, pumps, or races).

Upgrading of infrastructure/races

- 13 The Commissioners record that Mr Larsen's evidence was "that he further considers it very unlikely the RICL would take any action in the immediate term to upgrade the race network to address these issues or to increase capacity". In reaching this view, Mr Larsen made reference to the (expired) Water User Agreement noting that "It also provides that RICL is under no obligation to construct or replace any irrigation works."
- 14 Mr Larsen's evidence did not contain the detail of amendments proposed to the Water User Agreement, however we note that it is proposed to amend the clause referred to above, by adding "...or repair any part of the irrigation works where the repairs would be uneconomic to the Company. In any case where the Company elects not to construct or repair the irrigation works, and the Water User does not complete such repairs themselves, the affected Water User's shares will be transferred back to the Company at \$1 per share." If the determination of whether any construction, replacement or repair works are economic is made with reference to the annual water charges (currently \$126 per hectare) we consider this sets a very low threshold for economic works.

- 15 Please advise whether RICL intends, or can give any certainty as to whether it would consider, undertaking works to increase the capacity of the scheme, including the capacity of the races if that is a relevant constraint. If an increase in the capacity is contemplated, please advise the likely timeframe for such improvement works. If an increase in capacity would be considered, please outline the decision making process for confirming the works.

Additional shareholding

- 16 One matter that has not been raised by the Commissioners, but which we consider is particularly relevant to the provision of additional RICL water to the PC14 site, is how this is reflected in the shareholding and Water User Agreement. The current Water User Agreement with NZ Cherry Corp (Leyser) for the PC14 site limits both the area to be irrigated and the annual allocation.
- 17 Please advise of RICL's view as to whether it can increase the shareholding of or allocation to a single shareholder. If RICL considers this would be possible, please advise what the reliability of that water would be, and whether there would be any implications for existing shareholders' reliability and rights.

Yours faithfully
Anderson Lloyd



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Does RIC take its full consented volume?

RIC does not currently take its full annual consented volume and has not exceeded its instantaneous volume but has on two occasions exceeded its monthly allowance in dry summers. During the summer months the scheme is close to taking its full monthly volume, for example in January 2020 RIC abstracted 599,000 cubic metres of a consented 616,000 cubic metres.

Can Additional water be supplied to the PC14 site through existing infrastructure at high demand times?

B race has a capacity of 7 heads (198.24 L/Sec) up to Ritchie's Rd and 5 heads (141.6 L/sec) after Ritchie's Rd.

The properties after Ritchie's Rd have a total seasonal allocation (excluding frost water) of 900,000 m³.

A continuous 2 head (56.64 L/sec) flow for the 8-month irrigation season could deliver 1,174,487 m³.

There may be infrastructure limitations at some areas of the distribution system which if economically viable would be considered to enhance the capacity of the race past Ritchie's Rd.

Does RIC intend to, or can it give certainty as to whether it would consider undertaking works to increase the capacity of the scheme, including the capacity of the races if that is a relevant constraint. If an increase in capacity is contemplated, please advise the likely timeframe for such improvement works. If an increase in capacity would be considered, please outline the decision-making process for confirming the works?

RIC has no plans to upgrade infrastructure (apart from the Contact Energy flood mitigation project) but would look at any approach from existing or new shareholders and assess each project on its merits and the board has the power to address such an issue.

Please advise RIC's view as to whether it can increase the shareholding or allocation to a single shareholder. If RIC considers this would be possible, please advise what the reliability of that water would be and whether there would be any implications for existing shareholders reliability and rights?

New shares have been sold to existing shareholders in the past and would be considered on an individual basis if that request was made again in the future. The implications on the scheme and existing shareholders would be considered at the time.

Tim Jones

Chairman

23/07/2020