



Parliament of Tasmania

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

Members of the Committee

Mr Tony Fletcher
Mr Greg Hall (Chair)

Mrs Sue Smith
Mr Jim Wilkinson

Secretary: Mrs Sue McLeod

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Summary of Findings

The Committee finds that :

1. Allegations of impropriety against the Clyde Water Trust (the Trust) are not proven.
2. Irrigators granted rights prior to July 1976, in all probability, have a surety of supply superior to those rights granted post July 1976.
3. Parties having a disagreement with the above finding have the right to take action in the Supreme Court of Tasmania.
4. Action in the Supreme Court of Tasmania may be costly in terms of time and money and the Committee counsels all parties to make a commitment to the allocation process through consensus.
5. The decisions of the Trust and the history of water use by irrigators should be considered in seeking equitable allocation of water rights under any recommended process.
6. The Rivers and Water Supply Commission (the Commission) is best placed and has the expertise to allocate water rights having regard to all the circumstances.
7. It is inevitable that the price of water to irrigators in the Clyde River Irrigation District, determined on a cost recovery basis, will increase in the future. It is most likely that the pricing structure will be in two parts. Such a system guarantees security of revenue for the managing authority and high surety of water supply to the consumer.
8. The addition of water from Lake Meadowbank to the Clyde scheme will provide surety of water for irrigators at the southern end of the Clyde Valley. This will enable irrigators upstream to be allocated with sufficient water from Lakes Sorell and Crescent to meet their assessed needs.
9. Part 14 of the *Water Management Act 1999* provides the right of appeal against decisions made in relation to water allocations.

The Committee recommends that :

1. All irrigators accept the Commission as the administrators of the Clyde River Irrigation District for the time being.
2. All irrigators cooperate with the Commission in the process of determining future allocations.
3. The Commission, in managing any process leading to the allocation of future rights, has due regard to all the relevant matters including the statutory obligation to make allocations 'consistent with agreements in force at the time'.
4. All irrigators, as a matter of urgency, respond to the Rivers and Water Supply Commission's invitation to apply for water rights.
5. Future planning for the Clyde River Irrigation District should take into account all options, including the option for further on-farm storage and the increased use of water from Lake Meadowbank, for increasing the supply of cost efficient water to irrigators in the district.

**Parliament House, Hobart
2 September 2004**

**Greg Hall MLC
Chair**

Tony Fletcher MLC

Sue Smith MLC

Jim Wilkinson MLC

1.1 APPOINTMENT AND TERMS OF REFERENCE

On Wednesday, 26 May 2004 the Legislative Council resolved that a Select Committee of Inquiry be appointed “to inquire into and report upon provisions of the Water Act insofar as they relate to the Clyde River Irrigation District, with particular reference to —

- (1) the history of water allocation and usage over time;
- (2) sustainability of water use;
- (3) the quantum of water available;
- (4) current situation in regard to flows and storages;
- (5) the review of pertinent documentation and reports; and
- (6) other matters incidental thereto”.

The Committee comprised four Members of the Legislative Council – Mr Fletcher, Mr Hall (Chair), Mrs Smith and Mr Wilkinson.

1.2 THE REASON FOR ESTABLISHING THE COMMITTEE

The Committee was established as a result of the representations, both written and oral, from people in the Clyde River Irrigation District in relation to the availability and allocation of water for irrigation purposes. The Water Amendment Bill 2004 was before the Legislative Council at the time and Clause 61 provided for universal succession of the River Clyde Trust.

The Chair of the Committee, speaking against Clause 61 of that Bill, said irrigators in the district :

“...are fearful that their current entitlements will be quashed in favour of an unknown alternative, formulated by people over whom they have little or no influence”¹,

if the Clause remained as part of the Bill and passed.

Mr Hall went on to say :

¹ Hon Greg Hall MLC, *Hansard*, 27 May 2004, p. 13.

“Make no mistake, irrigation water is the lifeblood of the southern highlands. The extensive agricultural hinterland around Bothwell is by nature a very low rainfall region and it is subject to some pretty severe droughts, as we have seen in the last couple of decades. Agriculture underpins the whole economy and the social fabric of that area”.²

In support of the establishment of the Committee, the Hon. Tony Fletcher MLC stated that he believed :

“... it presents a considerable opportunity for the Parliament. Rather than making a decision where we are taking the Government’s point of view and believing that the only consideration, we now get the opportunity to research this matter on a broader base”.³

Although indicating his support to remove the Clause from the Bill and to establish the select committee, the Leader of the Government, the Hon. Michael Aird MLC warned that the legislation established :

“heads of power for people to make judgements outside of parliament ...about how water should be allocated ... [and] that if members of parliament get into the exercise of actually allocating water or making recommendations on the allocation of water, then it can distort the whole principle [of what the legislation is trying to achieve]”.⁴

The Committee was therefore established with these comments in mind and to provide clarification of the issues concerning the allocation of water in the Clyde River Irrigation District.

1.3 PROCEEDINGS

The Committee called for evidence in advertisements placed in the three regional daily newspapers and the regional newspapers, The Gazette, the Highlands Digest and the Tas Country. In addition invitations were sent to key stakeholder groups.

Twenty five written submissions were received and verbal evidence given by sixteen witnesses in Tasmania. The Committee also recalled three witnesses to give additional evidence.

The Committee met on ten occasions. The Minutes of such meetings are set out in Attachment 4.

The witnesses are listed in Attachment 1. Documents received into evidence are listed in Attachment 3.

² Hall, op.cit., p. 14.

³ Hon Tony Fletcher MLC, *Hansard*, 27 May 2004, p. 17.

⁴ Hon Michael Aird MLC, *Hansard*, 27 May 2004, p. 14.

As early as 1833 dams and sluices were erected at Lakes Sorell and Crescent to conserve water for its release down the Clyde in the summer months. According to information provided by the Department of Primary Industries, Water and Environment,

“Lake Sorell was raised by means of a low weir at the mouth of the Interlaken Rivulet and the bed of the Clyde River was deepened and extended back into deep water with a control gate across the channel.

In 1857 the *Clyde River Act* was passed which established the Clyde Trust to protect the sources of the River Clyde and to secure a supply of water to the inhabitants of the townships of Bothwell and Hamilton. The trustees became the holders of riparian rights and succession of those rights has continued unbroken via the *River Clyde Act 1869*, the *Clyde Water Act 1898* and more recently the *Water Management Act 1999*.

The *River Clyde Act 1869* was passed to make better provision for securing a sufficient flow of water in the Clyde. The Act gave the Trust powers to levy rates on the water users.

In 1898 the *Clyde Water Act* was passed which established the current Clyde Trust and provided water for the towns of Bothwell and Hamilton.

The *Lakes Sorell and Crescent Conservation Act 1901* was enacted to provide for the sharing of the lakes’ waters between the Clyde Trust and the Midland Trust. Although the Act still exists, the Midland Trust is no longer in existence. However, the Act did grant the Trust an allocation of 100,000y3/d (76.5 ML/d)⁵.

It is evident that in the past the process for payment of water rights has been fairly casual. Mr Peter Williams, Director of the Rivers and Water Supply Commission, said :

“It seemed to be very much reliant on self-assessment as to the amount of water you used, depending on people’s electricity meters and all sorts of things like that. ... But it had worked for 100 years

...⁶

However, problems commenced in the late 1990s for four main reasons - drought, intensive cropping and the discovery of carp in Lakes Sorell and

⁵ *History of water management in the Clyde Catchment* – Department of Primary Industries, Water and Environment website.

⁶ Mr Peter Williams, Director of Rivers and Water Supply Commission, *Transcript of Evidence*, 19 August 2004, p. 18.

Crescent which resulted in Lake Crescent being closed in 1995 and the introduction of the *Water Management Act 1999*.

A summary of the water rights issues in the Clyde Valley since that time, prepared by the Manager of the Water Management Branch of the Department of Primary Industries, Water and Environment, state :

“The *Water Management Act 1999*, which was proclaimed in January 2000, provided for the succession of the River Clyde Trust and its trustees, originally established under the *Clyde Water Act 1898*. Schedule 5 of the *Water Management Act* conferred certain powers on the Trust, including the power to administer an Irrigation District under the *Irrigation Clauses Act 1973*. It also provided for the property, rights and liabilities of the former River Clyde Trust to be transferred to the Trust as reconstituted under the new Act.

Schedule 5 also provided that the Minister must grant the trust a water licence, taking into account the reasonable requirements of the Trust and the quantity of water needed by the relevant ecosystems...

Schedule 5 of the Act also required the Trust, with the approval of the Minister and within two years of the Act's commencement day, to grant irrigation rights under the *Irrigation Clauses Act 1973* to the Central Highlands Council and to eligible irrigators consistent with any agreements in force at the time of commencement of the Act. These provisions of the *Water Management Act* were developed in consultation with the Trust during the development of the new Act in 1999 and were designed to provide greater security of water entitlements for irrigators. The new irrigation rights will also be tradeable giving the irrigators far more flexibility in meeting their year to year water requirements.

Unfortunately, the allocation of irrigation rights has proven to be far more difficult than anyone envisaged and consequently the Trust has experienced difficulty in meeting the requirements of the Act within the time period specified”.⁷

Committee “B” was then formed by the Trust to investigate current and historic water rights of Clyde Valley irrigators.

“This Committee developed and assessed data on the evidence of prior approvals and history of use for each of the properties in the valley. The Trust then sought independent legal advice on a number of central issues and employed consultants Marsden Jacob Associates Pty Ltd to make recommendations to assist the Trust with the final allocation decision.

⁷ *Summary of Water Rights Issues in the Clyde Valley* prepared for the Committee by the Manager of the Water Management Branch, Department of Primary Industries, Water and Environment.

After a long and difficult process, the Trust managed to convert previous water entitlements under the *Clyde Water Act 1898* to recommended irrigation rights under the Irrigation Clauses Act 1973. The Trust then wrote to the Minister on 13 December 2002, requesting approval of its proposed grants of irrigation water rights as required by Schedule 5 of the Act. At this time the irrigators were unaware of the proposed rights recommended by the Trust.

Following advice from the Office of the Solicitor-General that the Trust's recommendations and the explanation of the methods used did not establish that the recommended rights were 'consistent with agreements in force at that time', as required by Schedule 5 of the Act, the Minister was unable to approve the rights recommended by the Trust.

The Minister requested the Trust to review the recommended allocations, in consultation with irrigators, so that they meet the specific requirements of the Act as far as possible. The Trust was also requested to report to the Minister on the consultation process, on the amended recommendations for the granting of rights and on compliance of those recommendations with the Act.

The Trust revised the irrigation rights and advised irrigators by letter on 22 May 2003 of their proposed irrigation rights it intended to recommend to the Minister and also invited irrigators to a meeting with the Trust on 30 May 2003. The meeting of irrigators censured the Trust for failing to communicate with all irrigators and operate in a transparent manner in the matter of the allocation of water rights...

In October 2003, given that the irrigation rights were not yet in place and that the 2003-04 irrigation season was soon to begin, the priority was to ensure that the irrigators in the Clyde Valley had a mechanism by which they could take their water allocation.

Following advice from the Office of the Solicitor-General, the Department issued temporary water rights to the Clyde irrigators for the coming season to ensure that their irrigation enterprises would not be jeopardised by the delay in granting permanent irrigation rights.

As a result of the inability of the Trust to manage the irrigation district and after discussion with both the River Clyde Trustees and with representatives of the irrigators, the Minister sought the formal agreement of both the Trust and the Rivers and Water Supply Commission for a substitution of water entities under section 181 of the *Water Management Act 1999* and this occurred in November 2003.

Under this substitution, the River Clyde Trust remained intact as an incorporated entity but no longer had the responsibility for the

administration of the River Clyde Irrigation District. This administration role became the responsibility of the Commission.

As well as having an administration role, the Minister requested the Commission to review the business affairs of the Trust, prepare a business plan to ensure the on-going viability of the Irrigation District and make recommendations to the Minister on the future administration of the District. As the allocation of the irrigation rights in an essential part of the business plan development, the Commission was also requested to address this matter on conjunction with the Department, the Trust and irrigators.

The Minister asked that the review by the Commission be completed by March 2004 with the aim of having the River Clyde Irrigation District once again under local management for the 2004-2005 irrigation season. Subsequently amendments were included in the Water Legislation Amendment Bill 2004 to enable irrigation rights within the River Clyde Irrigation District to be granted by regulations under the *Water Management Act*. This was based on the expectation that the Minister would determine regulations following further advice from the Commission and the Department".⁸

The Commission wrote to irrigators on 3 May 2004 requesting that they "lodge a request for the amount of irrigation right"⁹ they believed was appropriate, bearing in mind the extensive work that had already been completed by Committees B and C appointed by the Clyde Water Trust, Marsden Jacob Associates Pty Ltd and Andrew Beattie.

Not all irrigators responded to this request and the establishment of this Committee has meant that further action has been placed on hold.

We are aware that important matters of planning are in abeyance and agreed that an expeditious conclusion of the inquiry was warranted. We agreed that it was important to reintroduce an element of certainty with regard to water rights so that irrigators could recommence planning for the future.

It was apparent to us that assuming the role as arbiter of water allocations was something we should reject.

Accordingly our efforts have been focussed towards identifying the best methodology so that there will be equity in future water allocations in the Clyde River Irrigation District and efficiency in the process leading to such allocations.

⁸ *Summary of Water Rights Issues in the Clyde Valley*

⁹ Williams, Mr Peter F, Chief Executive Officer, Rivers and Water Supply Commission, Letter to Irrigators, 3 May 2004, p. 1.

The quantum of water available

“A water licence to take 10,000 megalitres per annum from Lakes Crescent and Sorell was granted to the Trust by the Minister in 2001. This was based on the median amount extracted from the lakes by the Trust in the 18 year period prior to 2001. Half of the allocation (5000ML) was classed as surety 5 water with the remaining water surety 6. The Trust is required to supply water for the town of Bothwell from the higher surety allocation”.¹⁰

We note that as a result of good rains in the catchment, the water supply last year was greater than the demand. However, drought and low lake levels meant that demand has exceeded supply from time to time.

We believe that the Clyde Water Trust has acted prudently in identifying the potential for supply of irrigation water from Lake Meadowbank. However, the initial development on the Clyde at Hamilton has created tension and has been criticised by some irrigators.

We accept that the drawing of greater quantities of water from Lake Meadowbank, providing the cost of supply is equalled across all users in the irrigation district would ease the pressure on the upper Clyde. This would provide absolute surety of supply for those irrigators on the lower reaches of the Clyde.

We believe these are compelling reasons to support increased use of water from Lake Meadowbank.

The Department of Primary Industries, Water and Environment has also investigated many options for expanding the water supply in the Clyde Valley. The possibility for large dams on the Shannon which could be used to store water and be transferred into the Clyde was found to be feasible as well as an option to pump out of the Shannon into the Clyde catchment and into storage dams.

A number of people have also built dams over the last five years and there are more that have been approved for construction.

Although these options are available if required, it is important that existing water entitlements are allocated prior to any expansion requiring additional capital expenditure. It is considered more efficient to allocate the existing water from Lakes Crescent and Sorell and the water available from Lake Meadowbank. The Trust or the water-operating entity, in conjunction with its members, can then determine whether expenditure on further water supplies is feasible and cost efficient.

¹⁰ *Summary of Water Rights Issues in the Clyde Valley*

We believe that the charge for water will also influence the amount of water used and some of the less efficient methods of irrigating will be replaced by more modern technology which will ensure that 10 000 megalitres is sustainable. A two-part tariff for charging will also encourage efficiencies.

In conjunction with determining the quantum of water available in the Clyde Valley, we strongly support the proposed Water Management Plans for Lakes Sorell and Crescent and the Clyde River being developed by the Consultative Group in accordance with the requirements of the *Water Management Act 1999*.

There were allegations made that certain minutes and correspondence of the Clyde Water Trust (the Trust) had been tampered with or altered in some way.

The Committee investigated these allegations. Officers of the Committee travelled to the office of the CEO at New Norfolk and had the records of the Trust made available to them. They scrutinised the original minutes of the Trust. The officers found that the records were well kept. They also found no evidence of any alterations to the minutes.

The minutes of the meeting of 21 July 1976 were also examined and found to clearly annunciate the policy of the Clyde Water Trust as determined on that date.

There was no evidence to suggest that the motion of 21 July 1976 had ever been rescinded.

Further, there were concerns about the legal correspondence and memorandum of advice. Officers of the Committee attended the offices of Dobson, Mitchell and Allport and viewed the endorsed copy of the legal memorandum and found it to be in order.

The fact that the Trust had entered into certain agreements was brought into sharp focus when certain Clyde Valley irrigators intervened during the Legislative Council debate on the Water Management Bill 1999. As a result of the intervention, the Government introduced an amendment to the Bill which required that any future rights granted be 'consistent with agreements in force at that time'.

We are of the view that this amendment referred specifically to the decisions of the Trust to grant water rights to various irrigators and was an effort to recognise the priority given to agreements entered into prior to 21 July 1976.

We considered the evidence of those who claimed that failure by the Clyde Water Trust to apply the 1976 policy consistently over time invalidated that policy and made redundant any agreements that the Trust may have entered into.

We note that the Clyde Water Trust, established under an Act of Parliament, has over its long history been inclined to operate on an ad hoc basis, meeting only when a situation demanded a decision.

There is evidence to suggest that the Trust neither kept accurate records of water drawn by irrigators nor sent out statements of account to demand payment from irrigators for water used.

The operations of the Trust can best be described as a loose partnership between fair-minded and committed citizens who sought to manage and local farmers who had a need for water.

The managers, who in some cases were also water users, had the best interest of their community at heart. They met on an irregular basis to facilitate the distribution of water and the water users from time to time paid to the Trust what they thought was fair consideration for the water they used.

It is fact that until the development of the infrastructure at Hamilton which enabled water to be taken from Lake Meadowbank, the Trust had always kept its financial affairs in balance. The need to borrow money to facilitate that development has brought the Trust to the brink of insolvency and led to the RWSC being appointed as administrator of the irrigation scheme.

We are not able to judge the merits of claims supported by legal opinion which challenge the validity of the Clyde Water Trust's decision-making processes and financing regimes, nor were we able to judge whether the 'agreements' entered into by the Trust were indeed redundant.

We hold the view that while the policy determined on 21 July 1976 is in all probability still valid, ultimately the matter can only be decided on appeal to the Supreme Court of Tasmania. Action before the Court, while available to an aggrieved party, should in our view be the last remedy chosen by any party.

We are however of the opinion that at this time these matters serve only to confuse the core issue of our inquiry.

We believe that it is possible to identify a process that accommodates the needs of present irrigators and allows some capacity for future growth.

We have noted the excellent work carried out by Committees B and C, appointed by the Clyde Water Trust, as well as reports from Marsden Jacob Associates Pty Ltd and Andrew Beattie, in an attempt to resolve water allocations.

We have noted that the work of these committees and consultants has the support of the vast majority of irrigators in the district.

We consider that the work of these committees and others is incomplete in that it fails to consider that water is a commodity and any future supply of irrigation water is likely to have a two-part pricing mechanism attached to it.

We are aware that some irrigators who were granted rights prior to 1976 have used little or no water since their application was first approved. During the taking of evidence these parties were referred to as 'sleepers and dozers'.

We are confident that the process we recommend has the flexibility to recognise their rights.

The Trust has previously recognised the potential of drawing water from lake Meadowbank to service irrigators on the southern end of the district and we have addressed this matter in Chapter 3.

We believe that to ignore the potential of Lake Meadowbank is to do a disservice to the future of the Clyde River Irrigation Scheme.

We have further noted that since the RWSC took over the administration of the Clyde River Irrigation district, they have moved rapidly to meet both the short-term needs and plan for the longer term management of the district.

The Rivers and Water Supply Commission is experienced in operating irrigation schemes and at an appropriate time divesting management of such schemes to local authorities. The Cressy-Longford was the first scheme to be handed to local management. All irrigators are now members of the company and the RWSC has maintained ownership of the core assets. The operational assets have been handed over to the company with an interest-free loan.

Although there were a few issues at Winnaleah in relation to prices and maintenance, that scheme has been dealt with in a similar manner to the Cressy-Longford scheme.

We are confident that the decision to appoint the RWSC to manage the Clyde River Irrigation District in the short term is sensible and strongly support continuation of their work in progress.

The intervention of the RWSC has introduced a new commerciality to the scheme's operations. The installation of water meters to monitor take and the realistic assessment of the cost, long term, of supplying water to the irrigators will bring a new and much needed discipline to any decision to use water.

We hold the view that this new discipline will require some readjustment by those who use water but are encouraged by evidence that the levels of recent usage can be sustained.

We note that in the recent past the RWSC has written to all irrigators requesting them to realistically appraise their water needs for the future having due regard to a pricing mechanism.

The response to this request has been disappointing and there are suggestions that irrigators are waiting for our report to be made public prior to further cooperating with the RWSC.

A legitimate allocation process can only commence once potential irrigators, having regard to the likely application of a two-part pricing mechanism that demands up to 80% of the water be paid for whether it is used or not, has been notified to the RWSC.

Irrigators supporting the Commission in its proposal to allocate water and aggrieved by a decision made in relation to licences and the allocation of water, have a right under the terms of the *Water Management Act 1999* to appeal to the Resource management and Planning Appeal Tribunal.

List of References

Aird MLC, Hon Michael, *Hansard*, 27 May 2004.

Fletcher MLC, Hon Tony, *Hansard*, 27 May 2004.

Hall MLC, Hon Greg, *Hansard*, 27 May 2004.

History of water management in the Clyde Catchment – Department of Primary Industries, Water and Environment website.

Summary of Water Rights Issues in the Clyde Valley prepared for the Committee by the Manager of the Water Management Branch, Department of Primary Industries, Water and Environment.

Williams, Mr Peter F, Chief Executive Officer, Rivers and Water Supply Commission, *Letter to Irrigators*, 3 May 2004.

Williams, Mr Peter, Director of Rivers and Water Supply Commission, *Transcript of Evidence*, 19 August 2004.

List of Witnesses

Attachment 1

Bignell, Mr John
Bowden, Mr Richard
Mackey, Mr Stephen, Clyde Water Trust
Archer, Mr Stuart, Concerned Irrigators Group
Harradine, Mr Alan, Department of Primary Industries, Water and Environment
Temple-Smith, Dr Mike, Department of Primary Industries, Water and Environment
Edgell, Mr Henry
Ellis, Mr Paul
Fowler, Mr John
Diggle, Mr John, Inland Fisheries Service
Hallett, Mr James, Montacute Pty Ltd
Archer, Mr Anthony, Norwood Estate
Ashton-Jones, Mr Scott, Rivers and Water Supply Commission
Williams, Mr Peter, Rivers and Water Supply Commission
Byard, Mr Terry, Southern Tasmanian Licensed Anglers Association Inc
Woodfield, Mr Craig, Tasmanian Conservation Trust

Written submissions taken into evidence

Attachment 2

Bignell, Mr John

Bowden, Mr Richard

Clyde Water Trust

Concerned Irrigators Group

Department of Primary Industries, Water and Environment

Derwent Catchment Natural Resource Management Committee Incorporated

Edgell, Mr Henry

Ellis, Mr Paul

Fowler, Mr John

Hall, Mr and Mrs G & K

Hills, Mr Leonard

Inland Fisheries Service

Jones, Mr John

Montacute Pty Ltd

Nichols, Mr Philip

Norwood Estate

Parson, Mr Geoff

Ramsay, Mr John

Ritchie, Mr Tony

Rivers and Water Supply Commission

Rothamay Pastoral Company Pty Ltd

Sonnars, Mr G

Southern Tasmanian Licensed Anglers Association Inc

Tasmanian Conservation Trust

Tasmanian Fly Tyers Club Inc

Documents taken into Evidence

Attachment 3

Background on the Rivers and Water Supply Commission's activities since assuming responsibility for the Clyde Irrigation District

Summary of Water Rights Issues in the Clyde Valley – prepared by Mike Temple-Smith

Points of Concern to River Clyde Trust Irrigators – John Fowler and Stuart Archer

Points of Concern – John Fowler – River Clyde Water Trust

Press Release dated 12 May 2004 – Clyde River – Concerned Irrigators

Submission to Greg Hall MLC re Clyde River Irrigation Rights from John Bignell represented all but 3 irrigators on the Clyde

76 Allocations and Proposed Allocations for Clyde River Irrigators 2003

Change in property value if proposed allocations were accepted

Letter dated 2 August 2002 to the Clyde Water Trust from Jenni Mattila & Co regarding the 1976 letters and legal methodology for the allocation of water by the Trust

Letter dated 17 June 2002 to Ms Jenni Mattila from Bret Walker regarding fees for the brief to advise the Trust

Fax dated 13 June 2002 from Jenni Mattila to Richard Bowden regarding the questions proposed for Mr Walker S.C.

Letter dated 5 October 2000 to Mr Richard Bowden from Susan Clennett of Dobson, Mitchell and Allport providing advice in relation to water rights

In the Matter of the Clyde Water Trust – Memorandum of Advice – Michael O'Farrell, 23 July 2002

Tax Invoice from Michael O'Farrell, Barrister to Clyde Water Trust

Map – Tasmania – Private Land containing areas of salinity in 2000

Map – Hamilton/Bothwell/Tunbridge (Clyde River)

Clyde Water Trust – List of Payments

Mr Stuart Archer provided documents to the Committee that he had received under FOI

Letter dated 13 August 2004 from Henry Edgell providing supplementary evidence

Letter dated 16 August 2004 from Richard Bowden providing supplementary evidence

Facsimile received 17 August 2004 from Stuart Archer, Concerned Irrigators Group regarding issues arising from the hearings

Letter dated 16 August 2004 from John Bignell providing a brief assessment of key issues

Minutes of the Clyde Water Trust as requested by the Committee

Financial position of the Clyde Water Trust as requested by the Committee

Instructions/briefs provided and legal opinions received by the Clyde Water Trust as requested by the Committee

Clyde Water Trust Meadowbank re allocated to Bothwell 30 July 2004 as requested by the Committee

Sharing the Murray

Fax dated 20 June 2003 from Stephen Mackey attaching fax dated 23 June 1999 to Stuart Archer from PC Toomey re proposed amendment to Act

Fax to Jim Wilkinson re issues involving Clyde Water Trust

Article "From Woe to Flow", The Weekly Times, Wednesday, July 28 2004 pp. 1 and 7

Clyde Water Trust Meadowbank re allocated to Bothwell 30 July 2004
Clyde Water Trust Minutes dated 26 October 2001 showing latest water rate charged

LEGISLATIVE COUNCIL SELECT COMMITTEE**CLYDE RIVER WATER****MINUTES****THURSDAY, 10 JUNE 2004**

The Committee met at 10.40 o'clock am in the Conference Room, 4th Floor, Henty House, One Civic Square, Launceston.

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Order of Parliament :

The Order of the Parliament appointing the Committee dated 2 June 2004, having been circulated, was taken as read.

Election of the Chair :

Mr Hall was elected Chair and took the Chair.

Business :**Resolved :**

- (a) That witnesses be heard under Statutory Declaration.
- (b) That evidence be recorded verbatim unless otherwise ordered by the Committee.
- (c) That advertisements be inserted in the early general news pages of the three daily Tasmanian newspapers on Saturday, 19 June 2004 and the Highlands Digest and Tas Country and that receipt of written submissions be conditioned for closure on Friday, 23 July 2004. It was also suggested that Mr Hall contact ABC rural radio in relation to the Committee's terms of reference.

A copy of a suggested advertisement is attached.

- (d) That the Secretary send invitations to make submissions to :

The Minister for Primary Industries and Water
Rivers and Water Supply Commission
Clyde River Water Trust
Central Highlands Council
Derwent Valley Council

Inland Fisheries Service

The Committee suspended at 10.58 am for an informal briefing with Mr Mike Temple-Smith and Mr Peter Williams. Mr Temple-Smith undertook to provide the Committee with a summary of his briefing and Mr Williams agreed to provide a map of the Clyde Irrigation District.

Tabled Document :

Background on the Rivers and Water Supply Commission's activities since assuming responsibility for the Clyde Irrigation District.

The Committee resumed at 12.15 o'clock pm.

Future Program :

The Committee discussed its future program and agreed to visit the Clyde Irrigation District and then meet to discuss further issues on Thursday, 1 July 2004.

At 12.35 o'clock pm the Committee adjourned until Thursday, 1 July 2004.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

THURSDAY, 1 JULY 2004

The Committee met at 3.55 o'clock pm in the lounge at the Castle Hotel, Patrick Street, Bothwell.

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Future Program :

Resolved :

- (e) That hearings take place on Tuesday, 10 and Wednesday, 11 August 2004.
- (f) That the Committee meet via phone link on Monday, 9 August to discuss procedures for the hearings.

At 4.30 o'clock pm the Committee adjourned until 10.30 o'clock am on Monday, 9 August 2004.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

MONDAY, 9 AUGUST 2004

The Committee met at 10.04 o'clock am in via phone-link.

Members Present : Mr Fletcher, Mr Hall, and Mrs Smith.

Confirmation of Minutes :

The Minutes of the meetings held on Thursday, 10 June 2004 and Thursday, 1 July 2004.

Correspondence :

Resolved, That the following correspondence be received :

- Email dated 28 June 2004 from Peter Williams regarding some Clyde issues.
- Letter dated 6 July 2004 from Stuart Archer regarding term of reference no. 5 'Review of documents and reports' and Committee response.
- Letter dated 9 July 2004 from Stuart Archer advising the documents held in relation to the Clyde Water Trust and the documents not available.
- Letter dated 9 July 2004 from Stuart Archer enclosing some information in relation to Clyde Water Trust.
- Email dated 28 July 2004 from Trevor Berriman, General Manager, Central Highlands Council advising that there is limited area for Council involvement in the Committee hearings.

Submissions and Requests to Give Verbal Evidence :

Resolved, That the following Submissions and Requests be tabled :

- 1) Mr Tony Ritchie
- 2) Tasmanian Conservation Trust
- 3) Southern Tasmanian Licensed Anglers Association Inc
- 4) Mr Paul Ellis
- 5) Mr Geoff Parsons – Member, Clyde Water Trust
- 6) Mr John Ramsay
- 7) Mr Philip Nichols
- 8) Montacute Pty Ltd
- 9) Clyde Water Trust
- 10) Rothamay Pastoral Company Pty Ltd
- 11) Mr Henry Edgell
- 12) Mr John Jones
- 13) Mr Leonard Hills

- 14) Mr G Sonners
- 15) Mr John Bignell
- 16) Derwent Catchment Natural Resource Management Committee Incorporated
- 17) Inland Fisheries Service
- 18) Tasmanian Fly Tyers Club Inc
- 19) Mr Richard Bowden
- 20) Concerned Irrigators Group
- 21) Rivers and Water Supply Commission
- 22) Mr John Fowler
- 23) Norwood Estate
- 24) Department of Primary Industries, Water and Environment

Documents Received :

Resolved, That the following document be taken into evidence :

- Summary of Water Rights Issues in the Clyde Valley – prepared by Mike Temple-Smith
- Points of Concern to River Clyde Trust Irrigators – John Fowler and Stuart Archer (Greg Hall)
- Points of Concern – John Fowler – River Clyde Water Trust (Greg Hall)
- Press Release dated 12 May 2004 – Clyde River – Concerned Irrigators (Greg Hall)
- Submission to Greg Hall MLC re Clyde River Irrigation Rights from John Bignell represented all but 3 irrigators on the Clyde (Greg Hall)
- 76 Allocations and Proposed Allocations for Clyde River Irrigators 2003 (Greg Hall)
- Change in property value if proposed allocations were accepted (Greg Hall)
- Letter dated 2 August 2002 to the Clyde Water Trust from Jenni Mattila & Co regarding the 1976 letters and legal methodology for the allocation of water by the Trust. (Greg Hall)
- Letter dated 17 June 2002 to Ms Jenni Mattila from Bret Walker regarding fees for the brief to advise the Trust. (Greg Hall)
- Fax dated 13 June 2002 from Jenni Mattila to Richard Bowden regarding the questions proposed for Mr Walker S.C. (Greg Hall)
- Letter dated 5 October 2000 to Mr Richard Bowden from Susan Clennett of Dobson, Mitchell and Allport providing advice in relation to water rights. (Greg Hall)
- In the Matter of the Clyde Water Trust – Memorandum of Advice – Michael O'Farrell, 23 July 2002 (Greg Hall)

Mr Wilkinson took his place.

Procedures for Hearings

The Committee discussed procedures for the public hearings in Bothwell and Hobart.

Water Management Law Reform Conference

General discussion took place on the Conference and it was agreed that Members would not attend as a Committee.

At 10.38 o'clock am the Committee adjourned until Tuesday, 10 August 2004 at 10.00 am at Central Highlands Council, Bothwell.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

TUESDAY, 10 AUGUST 2004

The Committee met at 10.05 o'clock am in the Meeting Room, Central Highlands Council, Alexander Street, Bothwell.

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 9 August were confirmed as a true and accurate record.

The Committee suspended at 10.07 o'clock am.
The Committee resumed at 10.15 o'clock am.

Public Hearings :

MR STUART ARCHER on behalf of the Concerned Irrigators' Group was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 11.14 o'clock am.
The Committee resumed at 11.30 o'clock am.

MR PAUL ELLIS was called, made the statutory declaration and was examined.

The witness withdrew.

MR JAMES HALLETT on behalf of Montacute Pty Ltd was called, made the statutory declaration and was examined.

The witness withdrew.

MR HENRY EDGELL was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 1.04 o'clock pm.
The Committee resumed at 2.00 o'clock pm.

MR JOHN FOWLER was called, made the statutory declaration and was examined.

The witness withdrew.

MR JOHN BIGNELL was called, made the statutory declaration and was examined.

The witness withdrew.

MR ANTHONY ARCHER on behalf of Norwood Estate was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 3.53 o'clock pm.
The Committee resumed at 4.17 o'clock pm.

MR RICHARD BOWDEN was called, made the statutory declaration and was examined.

The Committee suspended at 5.33 o'clock pm to hear Mr Bowden's reasons to proceed *'in camera'*.

The Committee resumed at 4.36 o'clock pm.

PRIVATE HEARING

Mr Richard Bowden was examined further *'in camera'* and tabled documents.

The witness withdrew.

Documents Tabled :

- Tax Invoice from Michael O'Farrell, Barrister to Clyde Water Trust (20)
- Map – Tasmania – Private Land containing areas of salinity in 2000 (4)
- Map – Hamilton/Bothwell/Tunbridge (Clyde River) (4)
- Clyde Water Trust – List of Payments (19)

At 6.04 o'clock pm the Committee adjourned until Wednesday, 11 August 2004 at 10.15 am in Committee Room No. 2, Parliament House, Hobart.

CLYDE RIVER WATER

MINUTES

WEDNESDAY, 11 AUGUST 2004

The Committee met at 10.30 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Public Hearings :

MR STEPHEN MACKEY on behalf of the Clyde Water Trust was called, made the statutory declaration and was examined.

The Committee requested that the following documents be provided :

- All Minutes of the Clyde Water Trust post 1985
- All Minutes of the Clyde Water Trust from 1976-1985
- All Minutes of the Clyde Water Trust that are available prior to 1976
- All instructions/briefs provided and legal opinions received by the Clyde Water Trust
- Financial Position of the Clyde Water Trust
- Proposed allocation outlined by Mr Mackey and associated documents

The witness withdrew.

MR TERRY BYARD on behalf of the Southern Tasmanian Licensed Anglers' Association was called, made the statutory declaration and was examined.

The witness withdrew.

MR JOHN DIGGLE on behalf of the Inland Fisheries Service was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 12.12 o'clock pm.
The Committee resumed at 2.00 o'clock pm.

MR CRAIG WOODFIELD on behalf of the Tasmanian Conservation Trust was called, made the statutory declaration and was examined.

The witness withdrew.

DR MIKE TEMPLE-SMITH on behalf of the Department of Primary Industries, Water and Environment, Water Management Branch was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 2.53 o'clock pm.
The Committee resumed at 3.10 o'clock pm.

Future Program :

The Committee discussed its future program.

Resolved, That -

- The Rivers and Water Supply Commission and Alan Harradine from the Department of Primary Industries, Water and the Environment be called to give evidence to the Committee.
- The Chair speak to Mr Anthony Archer and Mr John Fowler regarding the basis for their requests to provide additional information to the Committee.

Additional Information :

Mr Stuart Archer provided documents to the Committee that he had received under FOI.

At 4.00 o'clock pm the Committee adjourned until Thursday, 19 August 2004 at 9.00 o'clock am in the Conference Room, Henty House, One Civic Square, Launceston.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

THURSDAY, 19 AUGUST 2004

The Committee met at 8.52 o'clock am in the 4th Floor Conference Room, Henty House, One Civic Square, Launceston.

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Confirmation of Minutes :

The Minutes of the meetings held on Tuesday, 10 August and Wednesday, 11 August were confirmed as a true and accurate record.

Submissions :

Resolved, That the following submission be received -

(25) G & K Hall

Correspondence :

Resolved, That the following correspondence be received -

- Faxed letter dated 14 August 2004 from the Concerned Irrigators Group welcoming an opportunity to provide more evidence.

Additional Information :

Resolved, That the following additional information received –

- Letter dated 13 August 2004 from Henry Edgell providing supplementary evidence (11)
- Letter dated 16 August 2004 from Richard Bowden providing supplementary evidence (19)
- Facsimile received 17 August 2004 from Stuart Archer, Concerned Irrigators Group regarding issues arising from the hearings (20)
- Letter dated 16 August 2004 from John Bignell providing a brief assessment of key issues (15)

Documents Received :

Resolved, That the following documents be received –

- Minutes of the Clyde Water Trust as requested by the Committee (9)
- Financial position of the Clyde Water Trust as requested by the Committee (9)
- Instructions/briefs provided and legal opinions received by the Clyde Water Trust as requested by the Committee (9)
- Clyde Water Trust Meadowbank re allocated to Bothwell 30 July 2004 as requested by the Committee (9)

Business :

Resolved, That the Committee did not believe that Ms Jenni Mattila had any need for concern in relation to Mr Bowden's evidence and that the Secretary should advise Ms Mattila accordingly.

The Committee suspended at 8.58 o'clock am.

The Committee resumed at 9.32 o'clock am.

Public Hearings :

MR ANTHONY ARCHER was called, made the statutory declaration and was examined.

The witness withdrew.

MR STUART ARCHER on behalf of the Concerned Irrigators' Group was called, made the statutory declaration and was examined.

The witness withdrew.

MR ALAN HARRADINE on behalf of the Department of Primary Industries, Water and Environment was called, made the statutory declaration and was examined.

The witness withdrew.

MR STEPHEN MACKEY on behalf of the Clyde Water Trust was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 11.00 o'clock am.
The Committee resumed at 11.32 o'clock am.

MR SCOTT ASHTON-JONES AND MR PETER WILLIAMS on behalf of the Rivers and Water Supply Commission were called, made the statutory declaration and were examined.

The witnesses withdrew.

Tabled Documents :

- Sharing the Murray (20)
- Fax dated 20 June 2003 from Stephen Mackey attaching fax dated 23 June 1999 to Stuart Archer from P.C. Toomey re proposed amendment to Act (20)
- Fax to Jim Wilkinson re issues involving Clyde Water Trust (20)
- Article "From Woe to Flow", The Weekly Times, Wednesday, July 28, 2004, pp. 1 and 7(20)

The Committee suspended at 12.40 o'clock pm.
The Committee resumed at 1.20 o'clock pm.

Other Business :

The Committee considered issues for inclusion in a draft report.

Resolved, That Dr Bryan Stait and the Secretary view the original Minutes of the Clyde Water Trust for the 21 July 1976 and the original correspondence

from Dobson, Mitchell and Allport enclosing Michael O'Farrell's Memorandum of Advice.

At 2.35 o'clock pm the Committee adjourned until Monday, 30 August 2004 at 3.00 pm at Parliament House, Hobart.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

MONDAY, 30 AUGUST 2004

The Committee met at 3.08 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Confirmation of Minutes :

The Minutes of the meetings held on Thursday, 19 August were confirmed as a true and accurate record.

Additional Information :

Resolved, That the following additional information received –

Clyde Water Trust Meadowbank re allocated to Bothwell 30 July 2004 (9)
Clyde Water Trust Minutes dated 26 October 2001 showing latest water rate charged (9)

Report Deliberations :

The Committee considered Draft Report No. 2.

Resolved, That a further draft be provided to Members for their consideration and that suggested amendments be forwarded to the Secretary.

At 5.30 o'clock pm the Committee adjourned until a date to be determined.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

WEDNESDAY, 1 SEPTEMBER 2004

The Committee met at 8.35 o'clock am in the Ante-Chamber, Legislative Council, Parliament House, Hobart

Members Present :Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 30 August 2004 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

Letter dated 26 August 2004 (faxed 30 August 2004) from the Concerned Irrigators Group responding to verbal submissions made to the Committee on 19 August 2004.

Report Deliberations :

The Committee considered Draft Report No. 3.

At 8.55 o'clock am the Committee adjourned until 8.30 am on Thursday, 2 September 2004 in the Ante-Chamber, Legislative Council, Parliament House, Hobart.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

THURSDAY, 2 SEPTEMBER 2004

The Committee met at 8.35 o'clock am in the Ante-Chamber, Legislative Council, Parliament House, Hobart

Members Present :Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 1 September 2004 were confirmed as a true and accurate record.

Report Deliberations :

The Committee considered the changes made to Draft Report No. 3 by Mr Fletcher.

At 9.30 o'clock am the Committee adjourned until 4.00 pm on Thursday, 2 September 2004 in the Ante-Chamber, Legislative Council, Parliament House, Hobart.

LEGISLATIVE COUNCIL SELECT COMMITTEE

CLYDE RIVER WATER

MINUTES

THURSDAY, 2 SEPTEMBER 2004

The Committee met at 4.05 o'clock pm in the Ante-Chamber, Legislative Council, Parliament House, Hobart

Members Present : Mr Fletcher, Mr Hall, Mrs Smith and Mr Wilkinson.

Confirmation of Minutes :

The Minutes of the meeting held on Thursday, 2 September 2004 were confirmed as a true and accurate record.

Report Deliberations :

The Committee considered the Final Report, page by page.

At 4.27 o'clock pm the Committee adjourned *sine die*.