

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON CLYDE RIVER WATER MET IN THE CONFERENCE ROOM, HENTY HOUSE, LAUNCESTON ON THURSDAY 19 AUGUST 2004.**

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**Mr ALAN HARRADINE**, GENERAL MANAGER, WATER RESOURCES, DEPARTMENT OF PRIMARY INDUSTRIES, WATER AND ENVIRONMENT, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Hall) - Welcome, Mr Harradine. I would ask you to submit your evidence.

**Mr HARRADINE** - Good morning. My understanding is that following the committee's previous hearings where Mike Temple-Smith gave evidence on behalf of the Government and the Department of Primary Industries, Water and Environment the committee had some questions or queries about matters that Dr Temple-Smith was not able to provide. My understanding is that I was asked to come to the committee to provide those answers as best I could and hence I do not have a prepared statement. There is information I believe may be of use to the committee and I would expect that will hopefully come out during questions. If not, at the end I will add anything that I need to add.

**CHAIR** - Yes. So questions from the committee in that respect.

**Mr WILKINSON** - I suppose the obvious question is that you're an expert in the area and have looked into the matter now for a number of months, years, whatever it might be, what do you believe, if you were to sole person to make a decision, would be the appropriate method of allocating the water to the irrigators on the Clyde River?

**Mr HARRADINE** - Speaking as myself and not necessarily as a representative of the Government or DPIWE, I think you have to go back to the framing of the Water Management Act. A key principle of that act, as you may well be aware, was that when we came to develop the new water legislation, one of the issues we had to tackle was that people had existing water rights in whatever form they might have been - some formal, some less formal - under a whole range of different legislation. If water in Tasmania was going to be managed equitably and fairly and sustainably, and also that rights were to be tradeable, a key principle was that all those rights had to be of a similar nature. That meant you had to bring all those separate rights together into some very similar and single system.

The Water Management Act does provide that, and it basically took all the existing water rights in Tasmania, put them into a single act and now anyone who uses water, fresh water resources from the State, does so under the Water Management Act. They have no other rights to take water other than those given in the act; that is my understanding. Obviously, in bringing those previous rights into the Water Management Act, there was a threshold decision to be made; do you basically start with a clean slate and say no-one's got anything, so we all start divvying up the water again under the Water Management Act, or do you recognise that people have come to build businesses on those rights, are

dependent on those rights, and hence you then do what you can to preserve existing rights but bring them into the new system.

It wasn't a difficult decision. I think any reasonable person would expect that if they had water rights under other legislation, that those water rights should be retained as best they can be under new legislation. That was the principle that occurred, and that principle is no different from the Hydro Tasmania or an irrigator on the South Esk River or, we believed, in the Clyde water district, that any existing water rights should be preserved.

So to get back to your initial question, what I always believed from the word go in doing the Water Management Act, and since then, is that the aim of resolving the Clyde trust situation was that people should end up with a right that recognises their pre-existing rights in the broader sense, both legal and understood rights, but should also be fair in that it doesn't penalise people who have built businesses based on what they may have perceived to be their rights, whether or not those rights existed in reality.

A similar principle is currently being used, as you would be aware, Mr Hall, in other areas of the State, to at least formalise water use by irrigators, where they may be depending on the use of other allocations. We are using a system to formalise those rights, but based on the principle that people should be granted rights of some surety to underpin their existing businesses so that everyone basically taking water in the State has a clear and secure right.

**Mr WILKINSON** - When there was that amendment placed in that 1998 act in relation to the rights and agreements, or something along those terms -

**Mr HARRADINE** - 1999.

**Mr WILKINSON** - 1999 - sorry. You were involved intimately with that act. Were you taking into account then the agreements or rights that you've just been speaking about, those rights that were vested into individuals or properties in accordance with the previous act, like the Clyde Water Trust and their allocation of rights to different owners of that land?

**Mr HARRADINE** - Certainly we did the best we could. During the development of the act we met with all the affected parties, anyone whose water rights were going to be changed. We met with them about the best way of moving people from one system to the other. In some areas this was fairly simple because people could refer to a piece of legislation that said, 'This is your right', and it was fairly clear cut. In other instances there was one clear example with councils. Councils had rights under the Local Government Act to take water, but volume was never specified, so there was an issue of how you actually brought council's rights into the act to give them a secure right.

So we met with all those parties with, as I said, the primary aim of coming up with a mechanism to preserve existing rights that people need to underpin their operations as best we could, given the need to be sustainable as well.

**Mr WILKINSON** - Did you believe those existing rights were the rights already given by the Clyde Water Trust to landowners?

**Mr HARRADINE** - I think our initial meeting was with members of the Clyde Water Trust at that stage. Our initial view from that meeting and from other information we had was that there was not a clear definition anywhere of specific rights, that you couldn't go and say Joe Blow has x megalitres, Will Smith has this, et cetera. Given that, what we initially intended to do was to adopt a situation similar to what we had done with councils, and that was to recognise water use over the preceding three or five years, to recognise historic use. In other words, if people had been using that water to underpin their businesses, then that was the best way of determining what different people needed. My recollection is that that was the way the Water Management Act was initially drafted, to take account of Clyde Trust rights. We subsequently received further advice from Mr Stuart Archer and others that people had applied to the Clyde Trust for water, that the water had been granted and that there should be records in the Clyde Trust minutes of the granting of water rights, in the broader sense. Regardless of whether those rights were, I guess, statutory rights or how they might have been viewed, and given that this happened towards the end of our deliberations on the act - and it wasn't if we could go and make a long investigation about these things - we certainly didn't want to, I guess, take away anyone's pre-existing rights if that was the case. We were certainly led to believe that if you went back through the Clyde Trust minute book you would be able to find out what had been granted to different people. Therefore the act was amended at the very final stages to acknowledge that there may be agreements in place. The term 'agreements in place' was used specifically at that time to recognise that these might not be statutory rights per se, or be legal rights per se, but they were agreements that people had acted upon. Therefore the act was amended to acknowledge or to take account of the fact that there may be need to give recognition to existing agreements.

**Mr WILKINSON** - Did anyone in the Government go through all the minutes of the Clyde Water Trust to see whether there were any existing agreements in place, or whether those agreements were agreements from time to time, year to year, or whatever it might be?

**Mr HARRADINE** - No-one that I know of went through the books at that stage to do that.

**Mrs SMITH** - Is it correct under law that the licence is between the water management department and the Clyde Water Trust as a single entity?

**Mr HARRADINE** - The water licence for the River Clyde Irrigation District is a water licence under the act that the minister has granted to the Clyde Water Trust as an entity responsible for the administration, or at that stage the administration of the irrigation district.

**Mrs SMITH** - So if we parallel that with the licences you spoke earlier that have been given out to water authorities, for instance the Esk Water Authority, was there a single licence to the Esk Water Authority in the same way?

**Mr HARRADINE** - Yes, a single licence consisting of various allocations.

**Mrs SMITH** - So the agreements that may be in place between the Esk Water Authority, Launceston City Council and large businesses in the community, would you see that it was a responsibility of yourselves to be involved in that, or is that the responsibility of Esk Water and their agreements down the track?

**Mr HARRADINE** - It is not our responsibility to be involved in that, but I should point out that I believe that situation is quite different to what occurs in irrigation districts.

**Mrs SMITH** - Would you like to explain the difference, as you see it, between the Clyde and an example I have just given?

**Mr HARRADINE** - Esk Water has a licence to take raw water out of the system, and that is the water licence, and that is no different to a farmer taking water into a dam. What that farmer does, or Esk Water does, with that water after it is taken, as long as they do not put it back into a river, is not controlled by the Water Management Act. It is totally up to them to do it, and Esk Water then is free to go and make arrangements with the various councils to supply them with treated water. They do so, and that is not covered under the Water Management Act and not under our jurisdiction. In an irrigation district similar examples are Cressy-Longford and the South East irrigation schemes.

The operating entity, in those cases it has been the Rivers Water Supply Commission, has a licence with us to take the bulk water into storage or take it out and put it into channels or whatever they do but those irrigation districts are run under the Irrigation Clauses Act and that is our responsibility to administer the Irrigation Clauses Act.

Under the Irrigation Clauses Act, people have irrigation rights, they have subdivided rights of that bulk licence and hence because that is a situation we are responsible for, as I say, it is a different system.

**Mr WILKINSON** - Did anyone at all in the Government investigate the Clyde Water Trust and look at what rights they had or what rights they were exercising or was there any investigation at all in relation to the Clyde Water Trust to see how their charges are arrived at, whether they can build new dams if they deem that to be appropriate - in other words, to carry out business from day to day as they thought appropriate?

**Mr HARRADINE** - Our initial proposal, and it was subsequently accepted from the point of view of coming into law, was that the Clyde water irrigation operations should be formalised by bringing them under the Irrigation Clauses Act and the Irrigation Clauses Act then provides that structure of the powers of the entity.

Prior to that the trust had its own act, the Clyde Water Act, or whatever it was. That act was repealed with the Water Management Act coming in so it disappeared on 1 January 2000 but the operations were to be subsumed so that it became a formalised irrigation scheme. The aim of that, as I said, was to put a statutory framework around the operations of the trust to make it similar to what other water entities were doing in other irrigation schemes in the State.

**Mr WILKINSON** - Taking into account what occurred prior to the 1999 act coming into place, did you look to see whether there was anything at all within the previous act or within the previous minutes so that if the trust thought it appropriate that a new dam should be built, which dam could have given surety of water or more of a surety of water than was already the case in relation to the way they were allocated water, the trust had the ability to do that or not?

**Mr HARRADINE** - Certainly my understanding at the time - and I certainly don't suggest this is a legal opinion - was that the trust had as much right to go and build a dam as any farmer or any other person in the State had.

**Mr WILKINSON** - And then claim back from the users of that dam the cost of building the dam, I suppose?

**Mr HARRADINE** - My understanding would have been that the trust under its legislation was able to recoup from the people who pay for water the cost of its operations.

**Mr WILKINSON** - Thanks.

**Mr FLETCHER** - Mr Harradine, it just seems to me that there are a couple of major issues and one is demand-side driven and the other one is supply-side driven. If we could just look at the supply side for a start-off.

The Crown is granting to the Clyde Water Trust or some similar authority the right to 10 000 megalitres of water from Sorell and Crescent on an annual basis and there's argument that perhaps if that was increased to 15 000 megalitres per annum, substantially the supply side problems would be overcome combined with what's available in Meadowbank. The Water Management Plan suggests that is not possible and so there is a need to recognise that.

It has been suggested at various stages that perhaps there is an opportunity to access more water from the Shannon and, further, suppose there were a further storage area in the northern Clyde River below Crescent and Sorell that could retain water from winter run-off and winter rains and supplied in the cropping season or irrigating season. Have any of those options been considered and are they viable or would they assist the cause from the supply point of view? Is addressing supply one of the key critical issues?

**Mr HARRADINE** - To answer your second question first, I believe that it is most important to allocate the existing water entitlements of the Trust before options are taken to find more water, especially options that are capital or require additional capital expenditure. My belief is that it would be more efficient to allocate the existing water from Lake Crescent and lake Sorell as well as the water from Lake Meadowbank that's available. The trust or the water-operating entity in conjunction then with its members can determine whether expenditure on further water supplies is feasible and cost efficient. Bear in mind that some of the information that has been provided indicates that with the current allocations you would satisfy most of the demand in normal years for water. Once rights are allocated there can be trade of those rights and people can buy and sell those rights to change their situation if they want and hence I think it would be premature to invest further money, especially given the current debts of the trust, in further capital expenditure to provide more water run until you basically came to a stage where it was obvious that there was specific demand. You would also need to be aware of exactly where that specific demand was because there are different options for supplying water in different parts of the scheme.

In terms of has anyone looked or have we looked at options, yes we have. Under the Water Development Plan over the last two or three years we have done a number of look-sees in the Clyde area. We looked at possibilities for large dams on the Shannon

River which could be used to store water in the Shannon and then transfer into the Clyde and that is technically feasible. There are some land-acquisition issues that we didn't progress, but the water is there. More recently we have looked at options for lifting water out of the Shannon, pumping water out of the Shannon, dropping it into the Clyde catchment and running it into storage dams there and I do know there are a number of feasible proposals that people are interested in, both as private investments and to supply water to Clyde irrigators, that may well be of interest and may well proceed at some stage in the future. Notwithstanding that, any of these proposals would require the agreement of Hydro Tasmania because all the water in the Shannon River that is available belongs to the Hydro under the act, so the Hydro is a key player in this.

**Mr FLETCHER** - Can we move to the demand side for a moment. Demand is relatively high because there has been over the last three to five years perhaps more an increase in commercial activity in various forms of agricultural, horticultural pursuits that have demanded water. Supply exceeds demand at the moment. Is the price mechanism the basis for bringing those two into balance?

**Mr HARRADINE** - I am not sure that the demand always exceeds supply. Last year being a fairly wet year, my understanding was that supply was more than demand. Prior to that, a couple of dry years combined with low lake levels in the lakes meant that demand did exceed supply. I am not convinced that there is a huge difference between demand and supply in a normal year given that we haven't had a normal situation for a number of years. We haven't been able to take the full 10 000 out of the Lake Crescent and Lake Sorell until the coming season. That hasn't been possible until the good rains we've had recently. The trust hasn't had or the operating entity hasn't had the ability to fully utilise in the most cost-effective manner, the water from Lake Meadowbank. That's a fairly recent initiative in both getting that allocation and the pump. Also a number of people have built dams for themselves over the last five years or so and some more recently and I know there are a number of dams that have recently been approved for construction in the system so I don't think it is possible to say whether demand is above supply at the moment until all of this is bedded down and people see exactly where they stand with the dams and new supply and irrigation rights and trading and those mechanisms.

**Mrs SMITH** - So the 10 000 licence that the minister has attributed to Sorell-Crescent to the Clyde Water Trust, what sort of surety does that have? Is it a year-by-year thing, or is that a surety of up to two and a half for town and riparian, and the rest is available in a long-term process, or not?

**Mr HARRADINE** - The issue of how much is available for the town, my understanding is it hasn't been finally determined because the towns will receive an irrigation right. Hamilton no longer requires water from the lake, so that basically goes out of the system, and in allocating irrigation rights, I think one would need to look at Bothwell's requirements in the same way as one looks at other councils' requirements - that is, what is their real usage and at what surety does that need to be. The principle with users councils is that two-thirds of their water I think is provided at the highest security for public health and drinking purposes and so on, and the remaining third is provided the same surety as general irrigation water so that during times of shortage, councils should be restricted, the same as irrigators.

**Mrs SMITH** - But is this a year-to-year proposition, or 10 years?

**Mr HARRADINE** - The licence granted by the minister, and again my understanding - and this is the question Mike Temple-Smith would know more about - is it was a 10-year licence. Five thousand megalitres is at relatively high security, and 5 000 is at lower security. I can't put a figure on that, but normally we don't like to allocate water that's below about 80 per cent security on a long-term average. In terms of water out of lakes, certainly there would be more water available from the lakes, but obviously the more you take, the lower and lower surety it gets. So we in the department don't like to have people dependent on water that may only be available in, say, five years out of 10, or something; we don't believe that's a long-term sustainability issue.

My understanding is that the 10 000 megalitre licence is a 10-year licence that would be like any other licence automatically renewed unless there are reasons for refusing that renewal.

**Mrs SMITH** - Right.

**CHAIR** - Mr Harradine, you mentioned there were some private dam developments in the pipeline. Has any survey been done of the whole catchment as to what the capacity would be for off-stream storages at all?

**Mr HARRADINE** - No formal study has been done, but I am aware that it's not a matter of dam sites, it's a matter of water availability. My understanding is that the water resources of the Clyde catchment are now pretty well fully allocated, if not fully allocated, so any new dams that went ahead, whether or not you get water for them would be a key issue and in some instances you wouldn't be able to -

**CHAIR** - To fill them, yes.

**Mr WILKINSON** - Am I right in saying the number one priority in all this should be to give the irrigators enough water to irrigate their properties? That's number one? Let's forget about your Bothwell township at the moment, because we agree with the township aspect.

**Mr HARRADINE** - Well, I would say to underpin their existing commercial enterprises.

**Mr WILKINSON** - Yes. It seems to me that if people do want water not to use but just to trade, that should be very much a secondary aspect, because the whole history of the Clyde irrigation scheme seems to be people putting their shoulder to the wheel years ago to help dig trenches, and so on, to allow properties around them, and theirs, to be properly irrigated. Is that right?

**Mr HARRADINE** - The Government's policy is that water in this State should be used to make the best return for the State, but that doesn't exclude trading because trading is part of that mechanism, so trading is a key part. I don't believe personally that people should get windfall gains -

**Mr WILKINSON** - That's what I'm getting at.

**Mr HARRADINE** - but by the same token I think people should be allowed to - I think there needs to be some recognition of what people thought their water rights may have been if there's evidence that that's what they were. While giving water for trading may well be a secondary thing, I still believe it's very important to recognise historic rights and what people thought their rights were. That's a principle that's being used throughout the scheme.

**Mr WILKINSON** - Even though those people haven't used the water for however many years - sleepers and dozers.

**Mr HARRADINE** - We didn't get into the matter of what you do with sleepers and dozers, and I'm aware of the problems it has caused on the mainland. We believed, in most of our areas, that sleepers and dozers were not a big issue in most areas of the State, and where they were, the amounts of water were not enough to make a huge difference. Therefore we gave all existing rights the same status whether they were sleepers, dozers, recent uses whatever.

**CHAIR** - The time being 10.30 has any other member a question for Mr Harradine?

**Mrs SMITH** - Alan, you made a comment that have been some significant issues in the area of the Clyde and one was the carp issue that saw significant water and then no water. The other was a significant drought. On top of all that we've had a water management act which has changed significantly the focus of how water is managed.

You suggested in some of the comments that this is early days to some degree, too early to predict. Your opinion was perhaps a concept of a moratorium, say for three or five years, and a capacity for people to utilise water, ensuring the environmental flows are maintained et cetera, with meters attached to each property and then only trading of water for no profit which means the usual tradition of the Clyde area where one helps one's neighbour is maintained, and reviewing the situation after a three year moratorium. Do you wish to profess an opinion as to a possibility that a concept like that may sort out the process?

**Mr HARRADINE** - My personal opinion is that it would be prudent to consider that very, very carefully. I think that has potential to significantly disadvantage people who are trying to expand their businesses or who have business plans or who currently need extra water.

Certainly requiring water to be traded at no cost means that there is no incentive to trade water and certainly one of the key features of the Water Management Act and the Governments' policy is that water should be traded to its highest value and used for its highest value. That means for someone who is not using their highest value, currently the best return to them may be from selling it, so, as I said, I think we need to be very careful in trying to establish a system that is different from elsewhere in the State unless we are very confident that won't disadvantage some individuals. I really don't see how you could have such a moratorium without disadvantaging some individuals.

**Mrs SMITH** - Thank you.



**Mr FLETCHER** - Mr Harradine, the cost-of-production factor of water. The 10 000 megalitres provided by the Crown, who will be responsible for allocating that water? Your branch, or the Rivers and Water Supply Commission? What do you envisage there?

**Mr HARRADINE** - When you say allocating, how do you mean allocating? To individual irrigators?

**Mr FLETCHER** - No, the 10 000 to the water trust or a similar authority.

**Mr HARRADINE** - Because whether or not the 10 000 is available will depend from year to year on what the lake levels are under the water management plan.

**Mr FLETCHER** - Who will decide that and allocate that?

**Mr HARRADINE** - The minister will. We now have a model which we can run, and the minister will be able to tell. We would obviously do this in conjunction with the water entity. There is good modelling now so you know well before the season what the situation is and what the likely rights are.

So each year, my understanding is that the water entity operating the district and the Government would get together, run the model and we would determine what water can be available at that time, notwithstanding that can change as the season goes on. But under the licensed conditions the minister has the power to restrict licensees and that would be no different in the case of the water entity.

**Mr FLETCHER** - There is a cost associated with doing that? Does the water flow with those costs attached to it or does it flow free to the water trust?

**Mr HARRADINE** - There is a licence fee that the trust or the water entity pays to the Government for that licence and part of the service we provide would be to give that advice to the trust on what water was available and what the water situation was.

**Mr FLETCHER** - Is there a formula for determining that water fee?

**Mr HARRADINE** - Yes, it is set under the water management regulations. All water licences in the State, whether they be for the trust, for a council or individual irrigators, are set under the water management regulations.

**Mr FLETCHER** - So can it generally be stated as a dollar a megalitre, more or less?

**Mr HARRADINE** - It varies very widely. You will see it as a formula for determining it based on volumes and other matters. It's a cost recovery. We base it on what it costs us as an agency to manage or provide the services to licensees and then we divvy that revenue target up amongst the licensees and there are formulas provided in the regulations to do that.

**Mr FLETCHER** - So it is trust - specific rather than applying a general formula over the whole of the State?

**Mr HARRADINE** - It's a general formula and my understanding is, it is not a specific licence fee for the trust. They pay a licence fee similarly to other water entities that run irrigation schemes and that is set under the regulations.

**Mr FLETCHER** - Okay. You seem to be hesitating to try to quantify it in any way at all. Is it a significant amount or an insignificant amount or would there be argument about that?

**Mr HARRADINE** - There would be argument. In our view it's a very insignificant amount for what the value of the water is, but that's a personal view.

**Mrs SMITH** - We have a copy that has been prepared by the Resource Allocation Branch of Resource Management Division, the statewide policies of the West Australian Water and Rivers Commission. Tasmania quite evidently has policies on licensed water entitlements, et cetera. Does that come under your jurisdiction or Rivers and Water? Who should I request for copies of the policies?

**Mr HARRADINE** - Sorry, of government policies? I'm not sure which ones you are talking about.

**Mrs SMITH** - I have the Government of Western Australia, Water and Rivers Commission statewide policies. This one is a policy on the management of unused licensed water entitlements. Presumably we have policies in place in the department. Is it your area or Rivers and Waters?

**Mr HARRADINE** - It's our area. We are quite different from the West Australian one. The Rivers and Water Supply Commission is totally separate from the Department of Primary Industries, Water and Environment under statutory frameworks. Policies and water licence issues are the responsibility of the minister under the act and hence any policies regarding those come under our jurisdiction. That's not to say that the Rivers and Water Supply Commission will not have policies for how they run their irrigation schemes, but they are not overall government policies on water licence issues, et cetera.

**Mrs SMITH** - Do you have a policy document you can provide to the committee on water entitlements in irrigation?

**Mr HARRADINE** - No, there is not a specific policy on that.

**Mrs SMITH** - Thank you, I just thought you may have had documents.

**Mr HARRADINE** - There are a number of policies that we have developed which are on the web and they cover things like environmental water provisions, allocations on winter flows and various water trade and some of those things but there is not a specific one on water licensing.

**Mrs SMITH** - Thank you.

**THE WITNESS WITHDREW.**