

**Submission on Proposed Water Permits Plan Change (Plan Change 7)  
to the Regional Plan: Water for Otago**  
*(Form 5, Clause 6 of the First Schedule, Resource Management Act 1991)*

**Form 5**

**Submission on publicly notified proposal for policy statement or plan**  
*Clause 6 of First Schedule, Resource Management Act 1991*

To: Otago Regional Council  
policy@orc.govt.nz

Name of submitter: **Maniototo Irrigation Company**

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*This is a submission on the following proposed plan change:*  
Proposed Water Permits Plan Change (Plan Change 7) to the Regional Plan: Water for Otago.

We could not gain an advantage in trade competition through this submission.  
I am directly affected by an effect of the plan change that

- (a) Adversely affects the environment; and
- (b) Does not relate to trade competition or the effects of trade competition.

The specific provisions of the proposal that our submission relates to and the decisions we seek from Council are as detailed on the following pages.

We wish to be heard in support of our submission.  
If others made a similar submission, I **will** consider presenting a joint case with them at a hearing.

*(Delete if you would not consider presenting a joint case)*

Signature of submitter: ..... Date: .....

*(Or person authorised to sign on behalf of person making submission.)*

*Signature not required if you make your submission by electronic means)*

## Position of MIC

1. The Maniototo Irrigation Company(MIC) **oppose all of Plan Change 7**. MIC want the Plan Change to be removed and the remaining water permits that expire before the reviewed Regional Plan Water for Otago (RPW or Water Plan) is operative processed under the current Water Plan.
2. MIC are particularly opposed to the methodologies in Schedule 10A.4

## Reasons

### **PC7 does not meet statutory requirements for plan changes**

3. PC7 does not meet the necessary statutory tests:
  - i. PC7 fails to provide a coherent and complete framework for managing the taking, damming, discharging, diverting and re-taking of water in Otago.
  - ii. The objectives and provisions of PC7 are not an appropriate way, or the most appropriate way to give effect to, or achieve Part 2 of the RMA. PC7 will not result in sustainable management, as it does not safe-guard life-supporting capacity, allow for mitigation of effects and does not provide for economic and social wellbeing.
  - iii. PC7 fails to give effect to National Policy Statement Freshwater Management.
  - iv. PC7 fails to give effect to the various versions of the Regional Policy Statement.
  - v. PC7 is based on an incorrect assessment of freshwater management in Otago and the Taieri catchment and the outcomes achieved or able to be achieved under the RPW.
  - vi. The Section 32 Evaluation of PC7 is incomplete and incorrect. This has resulted in an evaluation which underplays the failures of PC7 and overplays its effectiveness.

### **PC7 not linked to effects in the Upper Taieri**

4. The inclusion of the Upper Taieri Catchment (Sutton to the Styx) in PC7 does not relate to any effects or the realities of the catchment water permit situation. The ORC has not

assessed the need for or impacts of PC7 on the values of the catchment before notifying a blanket one size fits all approach for the region.

5. The Taieri catchment has operative minimum flows in the Water Plan. There is an allocation limit and the catchment is assessed as fully allocated. The “sinking lid” Policies in the Water Plan (for example Policy 6.4.2 and 6.4.0A) have been working in combination to improve efficiency and reduce the actual allocation on all water permits that have been renewed to date. The ORC have reported to us that primary allocation was 84,468L/sec on the 28<sup>th</sup> Feb 1998 and by May 2019 it had reduced to 31,537L/sec.
6. The Taieri catchment water users have been replacing their water permits and deemed permits for several years now. This approach was promoted by the ORC, as can be seen in the article “Timing of the essence in deemed permit conversion process”. *Appendix 1 Waterlines Winter 2016 page 5.*
7. By the end of 2019 the bulk of the water in the Taieri catchment, as assessed on rates of take, had been replaced:

Table 1 summary of consent Rate of take that has been replaced in permits by December

2019

	Consent expiry dates	The sum of the rates of take on the consents	Percentage of total rate of take issued in the catchment
Total I/s sum	Expiry - by 2024	5951.06	20.8%
Total I/s sum	Expiry - 2024 -2027	117	.4%
Total I/s sum	Expiry - 2031 - 2054	22504.95	78.2%
		<b>28573.01</b>	

Note: taking out the Trust Power permits at Mahingerangi, supplementary and non-consumptive takes  
Data source ORC supplied spreadsheet

8. PC7 will impact on the last 21% of the water that has not been considered for a replacement permit. The other 78% is issued for terms that are usually at least 25 years. The more recent permits from 2012 onwards have been issued following a full environmental assessment, and include reduced water allocation, efficiency assessments, residual flows where required and other environmental proposals. For example the Kyeburn Catchment Ltd (KCL) permits were issued by hearing commissioners and following an appeal to the Environment Court by Fish and Game have 35 year permits that include: Freshwater species protection plan, Group Managed Water sharing regime, numerous residual flows, extensive monitoring regimes, efficiency assessment and water allocation cut backs. *Attached as PDF Kyeburn Catchment Ltd permits.*

9. Contrary to comments by ORC Chairperson Marian Hobbs in Council meetings the permits that have been replaced are not simply being rolled over and given 35 year terms. They are being scrutinised thoroughly and aligned to all relevant statutory documents including the National Policy Statement for Freshwater.
10. The only thing that is missing on the KCL permits is the minimum flow. KCL expect (and accept) the Tiroiti minimum flow will be added as a condition of consent when the ORC call in all the catchment consents that link to the main stem, post 2021 and apply the minimum flows. This approach is required by Rule 12.1.4.4 and Policy 6.4.5 of the Water Plan.
11. The Taieri catchment water users have been flow sharing for many years to voluntarily uphold the minimum flows. They have formed Water management groups as encouraged in Policy 6.4.0B and 6.4.12A and have regimes established to ration water during low flow times.
12. Since December 2019 a further 5.5% of water has been issued or applications have been lodged. There is now 85% of the water in the Upper Taieri has been reissued or lodged and the Sangster hearing decision by an independent commissioner clearly stated PC7 was not to be given substantial weight to that permit which was being processed post notification. See Appendix 5.
13. In the 1980's a large dam, the Loganburn dam, now owned by MIC, was constructed by the Ministry of Works in the Lammermore ranges and many privately held mining rights and deemed permits were surrendered in return for an irrigation scheme supply that is supplemented with stored water. Many dryland farms were then also able to experience drought protection for the first time ever. The scheme is relatively small with 60 shareholders in total.
14. The combination of stored water being supplied to the Taieri River, a residual flow on the Taieri River weir at Paerau and then the introduction of minimum flows to the Water Plan has meant the Taieri River never goes dry like it used to before the Loganburn dam. This very positive contribution to the ecological health of the Taieri River by the farmer owned irrigation scheme is not understood or acknowledged by the wider Otago Community

#### **The full Upper Taieri catchment water management is close to completion**

15. Cohesion and fairness between water users in the Taieri Catchment is an important factor in every-one being motivated to work together to look after the resource. The catchment is in the final stages of transferring to the new regime where the relevant minimum flow will be included as a condition on all linked consents, along with residual flows conditions (a flow limit at the point of take) to look after values at intakes sites, and opportunities to look after the unique values are identified and actioned.

16. Most of the remaining consent applications have been lodged or are being prepared. Once those permits are issued the irrigators expect the ORC could implement Policy 6.4.5 and call in any of the permits that are linked to the mainstem flow during low flow and add the minimum flow to the permits.
17. The ORC has introduced PC7 as a holding pattern while the ORC update their own Water Plan. This has been done without any regard for the Upper Taieri catchment.
18. PC7 will stop any environmental progress for the next 8+ years. It will prevent the application of the minimum flow, as the short term permits are not issued with minimum flows. PC7 does not include any consideration for native freshwater species. The Taieri catchment has galaxiids and long fin eels. Six and fifteen year permits do not provide security for investment or alterations to intakes or abstraction patterns to benefit the environment.

#### **Maniototo Irrigation Company (MIC)**

19. The MIC irrigation scheme is operated in co-operation with Trustpower Ltd and generates hydro electricity.
20. MIC and Trustpower hold a number of permits including: to dam, to take, retake and discharge water. They are not due to expire until 2034 however six year or even 15 year terms are not feasible options to make management and investment decision on scheme maintenance and upgrades. For example: Two years ago the bulk head and tunnel on the Loganburn dam required inspection and maintenance to comply with NZSOLD requirements and that task alone costs \$190,000. We are concerned about the impact that these rules will have on other large dams covered by PC7, and also about the potential for these short terms to be carried forward into the new Land and Water Regional Plan.
21. To fully operate the dam and weir all the permits need to be in order and consistent. Having to replace any of the permits every 6 years or 15 years would be unnecessary and put the continued security of investment at risk. In this plan change or any future plan changes the permits associated with large dams must have long term options. They are multi-million dollar assets that cannot be managed on short term permits.
22. Current environmental conditions on the permits are extensive and include: eel passage on the weir, annual reports on weed control all around the dam, special grass species survival and efficiency improvements in the scheme, annual flow verifications, all NZSOLD health and safety requirements including seismic assessments.
23. PC7 introduces a restriction on the area irrigated associated with the controlled activity rule. The random year of 2017-18 as the limit for area irrigated is not based on any effects or reasoning. It is an unnecessary and dangerous concept that ORC is introducing a retrospective limit of irrigation area.

24. We assume the area irrigated is being set with some sort of intent to control perceived water quality and efficiency issues. Given the Water Plan already has water quality rules that are meant to apply to all farming operations not just irrigators this is extremely unfair.
25. We note that the 2019 Investigation of Freshwater Management and Allocation Functions at Otago Regional Council by Professor Skelton (Skelton Report) may have led to the idea PC7 was needed. The Report included the repeating of anecdotes from some stakeholders and council officers that the rush to use water from deemed permits was leading to an influx of dairy farming. See Appendix 4.
26. The Skelton Report included Table 1 which associated 74 deemed permits in the Taieri with 76 dairy farms. This was incredibly misleading. There are only 3 deemed permits associated with dairy farms in the Upper Taieri. The bulk of the dairy farms in the Taieri are on the Plains near the coast just south of Dunedin and none of those farms use irrigation. Their water issues are more related to excess water and flooding than drought.

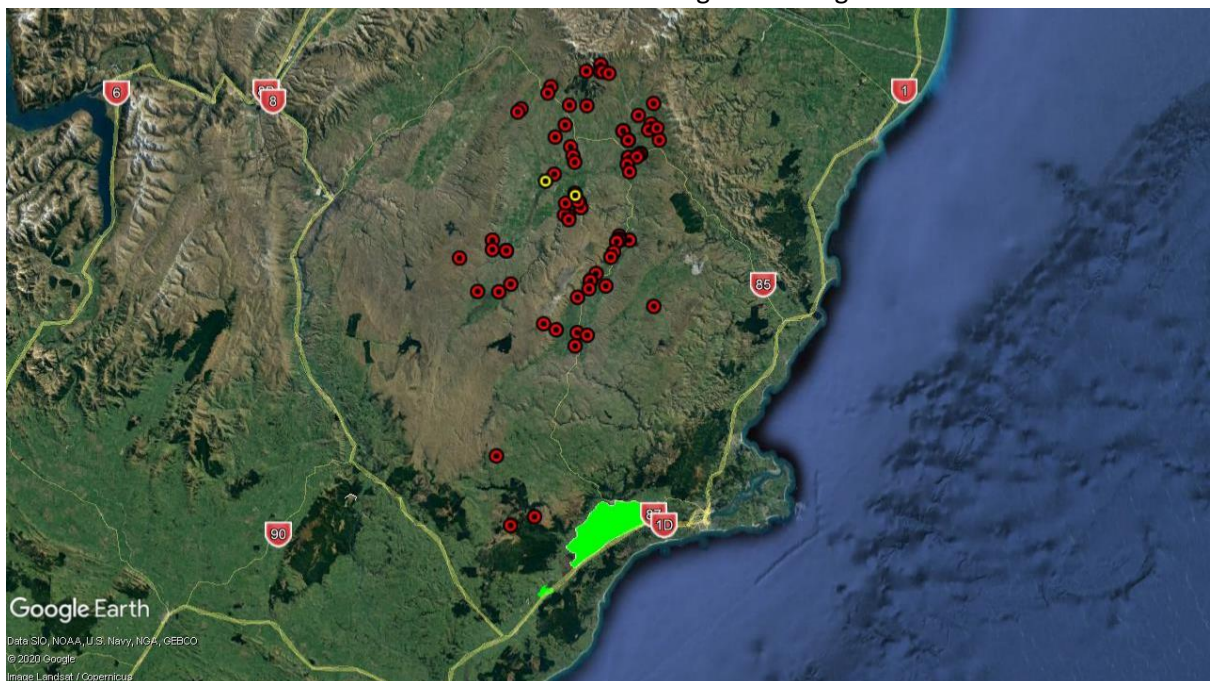


Figure 1. Dairy farms in the Taieri catchment (yellow dots and green polygon).

27. The Map in Figure 1 marks all the deemed permits in the Taieri catchment with the few linked to dairy farming coloured yellow. The bright green area is the dairy region of the Taieri Plains. Still within the Taieri catchment but not in the locality that deemed permits exist. The connections made in the Skelton Report were sloppy errors at best or the manipulative use of data at the worst. Either way we would not have expected this to be used in such an important report.
28. The ORC's own State of Environment Fact sheet describes the water quality of the Maniototo as meeting the Schedule 15 limits for the Taieri River. See Appendix 3. These are very tight limits when compared to the limits in the National Policy Statement for Freshwater Management.

29. The race companies of the MIC have been implementing water quality testing regimes to understand more fully what the impact of their footprint is and what measures need to be improved. The ORC Science team worked with farmers through 2018 on this project. The MIC shareholders have been pro-active in understanding water quality issues and implementing the required responses.
30. The locking in of area irrigated in 2017/18 through PC7 is a very blunt instrument that gives no regard to the more relevant facts and efforts of the community.
31. The MIC consents have efficiency requirements to report on annually (See Appendix 2 - Consent No. 2005.081.V2 Condition 12). Every year MIC, the associated race companies and shareholders have been upgrading the delivery and application systems. Shareholders farms are now predominately under spray application.
32. Given that the scheme started in the 1980's as a completely border dyke system this is a large and expensive change for all the shareholders to make.
33. As MIC has minimum flow consent conditions already on our permits we have been working with the community in developing flow sharing regimes. The private right irrigators on the main stem have been voluntarily sharing water in cooperation with MIC but we were keen to see the minimum flows all be applied through the consent reviews.
34. MIC along with the rest of the Upper Taieri irrigators have been preparing for post 2021 under the current plan for a long time. It is incredibly frustrating that the ORC has ignored all the Upper Taieri community work and stopped the progress with the inclusion of the catchment in PC7, with no consideration of the specific circumstances of the Taieri cathcment
35. We ask the PC7 be abandoned. And if that doesn't happen then we ask that the Upper Taieri be excluded from the ambit of PC7.

# Timing of the essence in deemed permit conversion process

We have the gold miners of old to thank for many of the irrigation schemes which today power our rural economy. Many landowners use water from races, dams, and channels carved into the landscape by those miners.

Back when the old mining privileges were granted they were done so on a first-in, first-served basis, which led to some users getting priority over others. No one looked at how much water was available to use or gave any thought to protecting instream flows and river habitat.

In 2012, in consultation with our community, the Otago Water Plan was updated to set out ways of managing how water is taken and shared among users. These users said they wanted the water managed locally and for groups of people to be able to work together to use this water.

We support this and are encouraging deemed permit holders to start the process of converting to RMA permits now. This will ensure that water

use will follow irrigation industry best practice, and lead to more efficient irrigation techniques and reduced runoff and wastage, benefiting both irrigators and the environment.

Putting a consent application together takes time. The deadline of 1 November 2020 might sound like a long way away, but it's fast approaching. Getting in now will ensure the application is complete enough to be received and processed, and that any revisions can be made well before the deadline.

If applications are made any later than 31 March 2021, the permit holder risks losing the ability to ever take water. ORC will support water users as much as possible to transition to the new consenting system. However, the ultimate

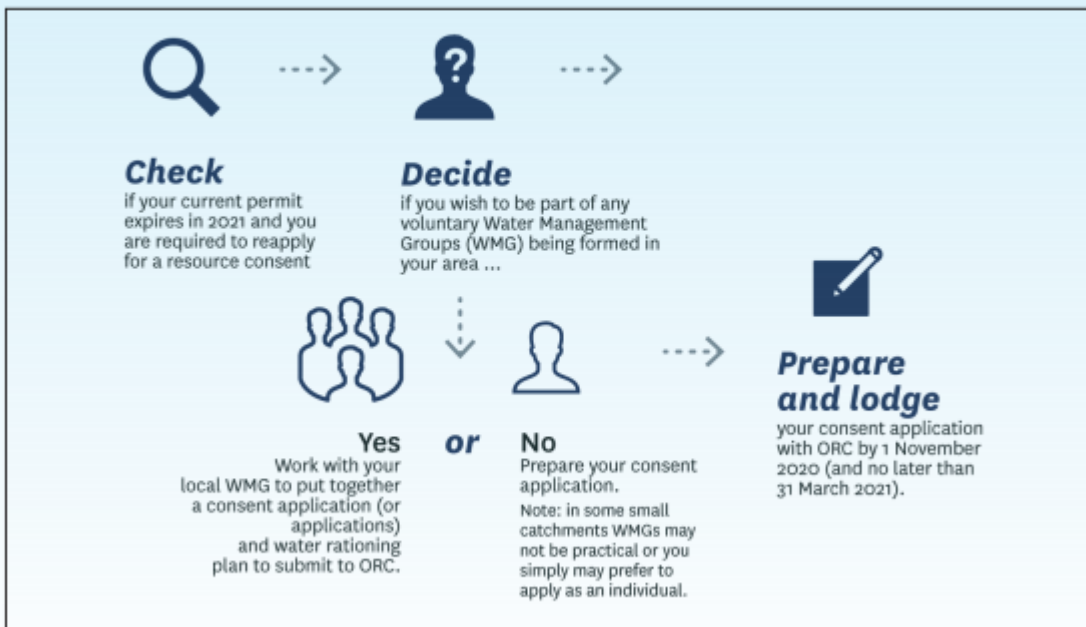
responsibility for making the application change lies with those who know their patch best – the users.

Forming a water management group to hold a consent or consents isn't compulsory under the water plan – an individual is just as eligible to seek a new consent as a group.

However, from a practical and economic standpoint, forming a group is well worth considering.

Following the approval of the Sowburn Water Company application, several catchments are also forming groups, or are preparing to renew their permits.

We are working with communities to help bring groups together, and our consents team is also working with groups on pre-applications.





## **Appendix 2**

Condition 12 from Consent No. 2005.081.V2

12. (a) The consent holder shall submit a programme outlining measures to be taken to increase water use efficiency, and scheme infrastructure efficiency, within the Maniototo irrigation scheme. The programme shall be to the satisfaction of the Consent Authority. The purpose of the programme is to ensure that as much of the water stored pursuant to this consent is delivered to the command area as is practicable. The programme shall include, but not be limited to the investigation of leakages within pipes and races.
  
- (b) The consent holder shall submit the programme to the Consent Authority within 24 months of the issue of this consent. The consent holder shall provide evidence to the Consent Authority that significant progress in programme preparation has been made within 12 months of the issue of this consent.
  
- (c) The consent holder shall implement the programme within 24 months of the commencement of this consent, with annual reports on progress of the implementation of the programme and updates to the programme to be supplied to the Consent Authority by 1 June every year.

## Appendix 3 Maniototo Water Quality Report Card *Source: ORC website*

Water quality report card

July 2014 to June 2019

# Maniototo area

## State of the Environment (SOE) water quality testing results

This information sheet gives you details about the quality of the water in your catchment.

Otago Regional Council carries out monthly State of the Environment (SOE) water quality testing. Our SOE sampling sites around Otago generally focus on areas at the bottom of catchments so we can make informed decisions about the wider catchment area.

SOE monitoring results are based on five years of data taken when the flow site was at or below median flow (note that the top 20% of the data is removed from the final information so the data isn't skewed by extreme results). The results for the Maniototo area are shown in the table below:

Rivers	Nitrogen (NNN mg/l)	Ammonium (NH <sub>4</sub> -N mg/l)	Dissolved phosphorus (DRP mg/l)	Bacteria <i>E. coli</i> (cfu/100ml)	Turbidity NTU
Taieri at Waipiata	0.0265	0.0137	0.04	254.7	3.18
Taieri at Stonehenge	0.0079	0.009	0.008	160	1.77
Water Plan limit	0.075	0.10	0.010	260	5.0

The figures in red show results that exceed the river or lake water quality limit. In this area, Taieri at Waipiata exceeds the water quality limits for phosphorus.

## What is the water tested for and why?

Nutrients	Nitrite-nitrate nitrogen (NNN)	Can cause nuisance plant/algae growth, which can affect stream life, block water intakes and make water unpleasant for swimming and drinking. Can be toxic to fish.
	Ammoniacal nitrogen (NH <sub>4</sub> -N)	
	Dissolved reactive phosphorus (DRP)	
Bacteria and turbidity	Escherichia coli ( <i>E. coli</i> )	<i>E. coli</i> is an indicator of the suitability for swimming or stock drinking water.
	Turbidity	Turbidity is a measure of the cloudiness of water, which may affect stream ecosystems.



## Appendix 4. Skelton Report page 14 and 15.

Since the Water Plan became operative in 2004, the Council has promoted a policy of “use it or lose

<sup>1</sup> “Every deemed permit resulting from a mining privilege under subsection (1)(c) or (d) shall be deemed to include a condition to the effect that it finally expires on the 30th anniversary of the date of commencement of this Act.”

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it”, encouraging the remaining deemed permit holders to use their water in order to demonstrate their volume of ‘historic’ usage when they apply to replace the permits. In some catchments, notably the Manuherehia, this “use it or lose it” message has reportedly had the effect of encouraging increased usage, including wasteful usage.

The Water Plan also has an “efficient use” requirement which has reportedly encouraged some deemed permit holders to shift away from flood or border dyke irrigation to more sophisticated spray and pivot irrigation, the funding of which requires greater productivity from more intensive land and water use. Dairy farming, for example, has increased in the Manuherehia from no dairy platforms in 2008 to at least 15 (refer to Table 1 below) now identified in the Agribase<sup>2</sup> database.

**Table 1: Otago catchments with the most deemed permits (as at 17 September 2019) and number of dairy farms in the region**

Catchments with deemed permits	Deemed Permits (takes)	RMA Water Permits (takes)	Median Expiry Date of RMA water permits	Whether over-allocated	Whether subject to Schedule 2 allocation and flow limits	Dairy farms
Taieri	74 (103)	160 (233)	2037 (2019-2023)	Yes	Yes	76
Manuherehia	71 (124)	122 (225)	2023 (2019-2052)	Yes	Yes (part of river - Falls Dam to Ophir)	15
Lindis	19 (31)	17 (28)	2029 (2021-2043)	Yes	Pending (notified and under appeal)	0
Cardrona	14 (27)	31 (55)	2038 (2020-2050)	No	Yes	0
Lowburn Creek	13 (41)	1 (2)	2046	No	Yes	0
Arrow	12 (18)	8 (19)	2030 (2021-2048)	No	Yes	0
Luggate	12 (16)	1 (1)	1 Oct 2021	Yes	Yes	0
All others (ca 50)	141 (223)	544 (836)		Approx. 60%	Approx. 30%	411
<b>Totals</b>	<b>356 (583)</b>	<b>884 (1399)</b>				<b>502</b>

Sources: Otago Regional Council (consent and plan data); Agribase (dairy farm data)

**Appendix 5:** Extract from the Glenayr/Sangster RM19.322 decision on a water permit in the Taieri, April 2020

***Findings – Duration of the Water Permits***

74. I find the appropriate duration for the PAWP to be just over 23 years with an expiry date of 17 May 2043 to align with the resource consent RM12.257.01 held by J R Crossan Limited.
75. I find the appropriate duration for the SAWP to be just over 34 years with an expiry date of 13 December 2054 to align with resource consents RM19.405.01-.03 held by the Applicant for the water storage dam.
76. I agree with the Applicant that very little weight should be given to the objectives and policies of PPC7 as it is in its infancy, having only just been notified, and the provisions have not been subject to any independent testing or decision making. Mr Hickey put forward a number of arguments to suggest that PPC7 could result in some inferior environmental outcomes. Whether or not Mr Hickey's arguments have any merit can only be determined through independent testing

and decision making. It is not my role to make any findings on Mr Hickey's arguments, but it is clear to me that there are likely to be substantive submissions lodged on PPC7 and that its provisions could well change before they become fully operative. This supports my finding that very little weight should be given to its provisions in determining this Application.