

Submitter No: 464

Submitter Name: Landpro Ltd

Landpro Hearing Notes. 13 Sept.

Date Received: 13/9 /17

INTRODUCTION

1. My full name is Zoe Alexandra McCormack and I am a Resource Management Planner at Landpro Limited, a firm of consulting planners, surveyors and engineers. I hold the qualification of Bachelor of Environmental Management and Planning from Lincoln University. I have been a planning consultant for over two years providing consultancy services for a wide range of clients throughout Otago and Southland.
2. In this time, I have undertaken a wide variety of resource management related work for various clients, including preparing resource consent applications and consent management services.
3. I hold professional membership with the New Zealand Institute of Primary Industry Management (NZIPIM), and have completed the Advanced Sustainable Nutrient Management Course.
4. I am familiar with the Proposed Southland Water and Land Plan 2016 (PSWLP), the Section 42A report and Section 32 report.
5. This evidence has been prepared in relation to the submission prepared by Landpro Limited on the PSWLP.

• I will take my evidence as read and would like to provide a quick 2min summary of our submission points

CODE OF CONDUCT FOR EXPERT WITNESSES

6. I have read the Code of Conduct for Expert Witnesses within the Environment Court Consolidated Practice Note 2014 and I agree to comply with that Code. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. To the best of my knowledge I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

COMMENTS ON HEARING EVIDENCE

7. The evidence I am presenting today on behalf of Landpro Limited has been prepared based on the input of a number of our planning and technical staff, some of whom are now employed by Environment Southland. This point is of particular relevance in relation to those matters and points of submission relating to Appendices K and L of the PSWLP. I will endeavor to answer any general questions around those points and at a higher level, and recognise that I am not a qualified Environmental Scientist.
8. I will be presenting on a range of matters which will ultimately support Landpro's view on the PSWLP in that in some instances the plan is not clear enough, in some instances the wording of the objectives, policies and rules will not achieve what they are intended to achieve and in places it contradicts itself.

• Final version has been received.

Commented [KS1]: This is where we should reference any proposed changes to the wording in the Sec 42 as a result of our submission and whether we support the changes or not, but also check the ES answers.

9. Our evidence is primarily focused on those outstanding matters which we do not believe have been adequately addressed in the recommending report (Section 42A), in which case we seek to provide further evidence in support of our view and the changes that we seek.
10. Where we have not provided specific reference to the matters made in our original submission we are confirming that we agreed with the recommended position of the planning officer with respect to these specific matters.
11. The following changes to the PSWLP are proposed as a result of our submission

- a. Removal of the wording 'fully mitigated' in Policy 16 and recognition that in some instances converting dairy may not reflect a worse environmental outcome;
- b. That Council seek some clarity as to what they mean by dairy farming, we disagree with the definition as it stands and propose it refers to all associated activities, not just the milking of cows;
- c. That intensive winter grazing applies on a percentage of landholding, and clarity around 'new intensive winter grazing' is provided
- d. The cultivation twice in any five year period is permitted and the correct datum is used;
- e. That the installation of an effluent tank is a controlled activity;
- f. That supplementary allocation limits are not so low, that stream depletion effects are considered with regards to relevant EC decisions,

I understand -

Farming Provisions

12. We generally support the Rules as recommended by the S42A report, particularly combining Rules 21 and 22. However, we still have concerns around some of the finer details of the wording of Policy 16 in that fully mitigated is retained. It's still unclear as to what this is, and we've found anecdotally that there have been vary interpretations of what fully mitigated means, or consenting officers are in a situation whereby they are making an assessment in accordance with Policy 16 but unable to clarify what fully mitigated means and yet still be in a position to reject an application under Section 88, which requires an assessment in sufficient detail, but as there's no understanding of what fully mitigated means – how can you provide sufficient detail? E.g. acceptable levels of adverse effects. Section 5 (2)(c) of the RMA states the purpose is for effects to be avoided, remedied or mitigated, and not 'fully mitigate'.
13. Conflict between interpretations within Council, and between Council and the Section 42a report which says that fully mitigated means, to provide in no uncertain terms that there must be no adverse effects on water quality associated with the proposed activity.¹ Which would resonate more with the meaning of the word 'avoid'.

¹ Paragraph 7.409, S42A report. 7 April 2017.

and aquifer tests removed from the plan.

** policy 16 ensure that farming activities do not contribute to the continued decline of water quality.*
• concerns of finer details particularly fully mitigated. b/c of interpretations, and confusion.
s88 - sufficient detail being rejected because doesn't simply ~~import~~ provide sufficient detail to make an "fully mitigated" assessment against "fully mitigated"

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*- s42a says X.
 some officers unable to explain or say its about acceptable levels.
 - obvious that it confuses the process and cause instances with the applicant significantly.*

** Repeat at the end.
 for the reasons discussed above the following is recommended*

14. With regards to Policy 17, Council have recommended that "as far as reasonably practical" is removed from the policy so that is consistent with the wording under the RMA, therefore why is 'fully mitigated' retained?

There needs to be

15. Recognition that the planning framework should be 'effects based' and that in some instances a conversion of a property to dairy may actually reduce the effects of the existing activity, for example moving from intensive winter grazing to dairying with wintering off could have major environmental benefits, ~~but~~ Policy 16 doesn't allow for instances when a change in land use will have positive environmental benefits and there is an underlying presumption that in all instances a conversion to dairy will negatively impact the environment. [Likewise, for expansions, we've seen modeled, losses through OVERSEER reduce as a result in expanding the dairy platform and increasing cows where concessions have been made (i.e. reduced cropping etc.)]

16. Yes, it's understood that an activity does not need to comply with all of the policies in a plan, however there's been significant weight given to the policy provisions under the PSWLP through resource consent applications, *in the last 12 months* and the non-complying burden is higher now than previously. ~~Particularly with bundling of consents.~~

17. ~~Leading on from that non-complying burden of consents, we've found that they have been~~ *non-complying applications often been processed*
~~treated~~ as discretionary activities in terms of the processing, and level of information etc., where Council have taken a pragmatic approach. Therefore, it's proven that this consenting process can be achieved as a discretionary activity in some instances particularly where the risks are lower e.g. installation of an effluent tank.

Definitions

18. Definition of dairy farming, at present ~~it~~ *the definition as proposed in s42a report.* excludes young stock, but when you're making an assessment of a dairy farm it's assessed in terms of water quality at the whole farm scale, i.e. a Nutrient Budget considers all stock run on the blocks and feed and replacements etc.. and so it seems there's a conflict between the activities to be consented and the activities you're assessing.

• it matters when you have to apply for LUC to dairy farms what's being consented.

Intensive winter grazing

19. ~~Intensive winter grazing rules~~, we believe that a 50ha threshold is not an effects based quantification, and that a percentage may be fairer. Rule 23(f1) refers to 'new intensive winter grazing' but it's unclear what this may be referring to. *— commission should revisit this*

20. Within our submission we had previously advocated for a restricted discretionary activity status *when to intensively w.g. more than* with regards to applying for more intensive winter grazing than the permitted threshold ~~should~~ be a restricted discretionary activity, however ~~this was proposed on the basis that there is more~~

certainty around the level of assessment required. However, given that the intent of the plan is to 'hold the line' in terms of water quality, a discretionary activity status would mean that the activity would have a higher testing against the policies which relate to the specific physiographic zones and ~~particularly around holding the line for water quality for farming activities that affect water quality.~~

• We recommend it should be ~~discretionary~~ agree with the council planners recommendation.

Cultivation on sloping ground

21. Landpro submitted on Rule 25 in that meters above mean sea level is not a real datum, and that cultivation could typically take place twice in any five-year period as part of sowing to crop and regrassing. I don't believe that either point was addressed within the S42a report. The effects of these changes would not detract from the intention of Rule 25 and would make for a better rule.

Effluent storage ~~and disposal~~

22. Rule 32 as proposed and recommended in the S42a report goes some way to appeasing Landpro's concerns, however it does not provide for the installation of an effluent disposal tank commensurate to the risk associated with tank installation. An effluent storage tank is designed by a suitably qualified design engineer and issued with a PS1 and also a building consent is required for the installation of a tank. Generally speaking, an effluent tank typically costs more than an inground pond to install and there's no recognition for this. Council have outlined that as the building code does not address environmental concerns a resource consent for the construction of effluent storage is necessary. However, so long as the tank is located a sufficient distance away from sensitive receiving environments i.e. nearby waterbodies and bores, at it is sufficiently sized then a controlled activity status would be sufficient. [At present the installation of a Tank would be captured as a non-complying activity, only on a technicality though as it's not covered under IPENZ PN21.]

- Based on the level of risk it should be a controlled activity.

Water Provisions

23. It is noted that Landpro's submission highlighted concerns with the PSWLP as drafted at notification in that it was at time inconsistent with the Maitara Water Conservation Order, particularly with regard to Rule 60(d) (Dams and Wiers). We note that this was also a question raised by the Hearing Commissioners on Councils S42A report, and this has been addressed in response to prohibiting dams in tributaries, S67(4)(a) of the RMA outlines that a regional plan must not be inconsistent with a water conservation order. As such, Council have recommended the rule be amended as follows:

to remove reference to damming of tributaries

Recommended amendments to Rule 60(a) and 60(d):

(a) ...
(viii) the dam or weir is not in the Maitara, Oreti or Waikaiti River, including the tributaries, or in the Oreti River⁵⁸;

(d) The placement or erection of dams or weirs in the Maitara or Waikaiti River, including the tributaries⁵⁹ and in the Oreti River main stem at Rocky Point at NZMS 260 E44373946 upstream at the forks at E42345450⁶⁰ is a prohibited activity.

Landpro support this amendment.

Appendix L.2 stream depletion effects.

24. Further to this, and in regard to our submission on Appendix L.2. (stream depletion effects) we recommend that the commissioners refer to the Morefield Farms vs. Environment Southland Environment Court decision to ensure that takes with a moderate degree of hydraulic connection are managed in accordance with this court decision. This decision basically discusses whether or not groundwater allocation is included as surface water allocation. There is a degree of Legal interpretation and technical specifics and I recommend the commissioners seek advice around this. It's very complicated it would be too difficult for me to explain.

Surface water allocation

25. ~~Appendix K (surface water allocation)~~ with regards to supplementary allocation. 10 percent is too low, for example at Oreti at Lumsden cableway monitoring site 10% of median flow would be 1.8m³/s ~~which could be allocated as supplementary allocation~~ (between 1 April and 30 November) during this time it might be common to have flows in excess of 50m³/s (which is in the order of 4% of the available flow). We feel that this 10% is a very conservative estimate and that the PSWLP provides little justification for a 10% allocation. Yes, it is understood that high flows are important for flushing, however once a flow peaks ~~then take more water won't affect ecology, why can't it be taken into storage?~~ *flushing has occurred.*

26. ~~The idea is that under the PSWLP you can't take start taking until it's above median flow, but when you can only 10% of median flow can be abstracted. Limited justification in terms of ecological effects. There's more available at this time and therefore a larger allocation makes sense. Landpro proposed a 50% of median flow on the basis that it was more in line with what happens across other regions.~~

27. Furthermore, to make an assessment on water takes, e.g. a generalized habitat assessment this requires having good flow information, not necessarily the flow information at the most flow sensitive point, which is contrary to the point where allocation is determined. The most flow sensitive point downstream can change from year to year and move about. It would be better to reference actual monitoring sites where compliance can be established more easily, and it makes sense in terms of ecological assessments as well. most sensitive point downstream, it's

landpro proposed 50% of median flow

1.8m³/s is

allocating more than 10% make of median flow

at least primary allocation is determined at the most flow sensitive point

Residual concerns

provision - reference - change you'd like.
concern.

- proposed
wording.

done. next Friday..

can seek technical
input.

so hard to be compliant with that and to know what that allocation would even be, given that you'd need to monitor flows at all points to determine the most flow sensitive; and that exact lowest point may vary over time, due to climate, hydrology, storm events, gravel deposition etc... also what policies link to the 'most flow sensitive point downstream?

Aquifer test requirements

28. With regards to Appendix L.1. as currently drafted this is too prescriptive particularly in terms of the 'maximum pumping rate utilised should be equal to or greater than the maximum proposed abstraction rate.' And a '24-hour constant-rate aquifer test undertaken at the maximum proposed abstraction rate'. We recommend that Table Y.1 is used more of a guideline which sits outside of the plan, as it would be a more pragmatic approach.
29. As I understand it, this is recommended on the basis that the reason for undertaking a pump test is not to ascertain whether or not maximum yield can be achieved for 24 hours of constant pumping, but whether you have the information required to make an assessment of the proposed take. For example, the maximum rate might be higher than the daily rate to enable pumping over a shorter period of time but an applicant would still be required to undertake a 24 hour pump test at that maximum even if proposing to pump for a shorter period of time. And in instances where the infrastructure limits the proposed abstraction rate but an application is made to abstract at a higher rate to secure that level before investing in the infrastructure, an applicant may be unable to pump at the maximum proposed due to the limitations of the existing bore.
30. Also, you may be able to determine the required aquifer parameters at a lower pumping rate and therefore this provision is in some instances a bit of an 'over-kill'. For example, a recent new water take application had pumping data available at 3 L/s and the application applied for 4 L/s. Arguably there's enough information to characterize effects but on the basis that the application did not comply with Appendix L.1. it was rejected. In another instance Council have required a review where an application was made for XL/s and a pump test was run for slightly less L/s, this seems to be requiring additional cost for applications with no clear understanding as to the difference in what the effects may actually be.

Further points
around 74. paragraphs

prepared 20%.

for the reasons discussed above