

**BEFORE THE HEARINGS COMMISSIONERS  
AT WAIKATO DISTRICT COUNCIL**

**UNDER** the Resource Management Act 1991  
**IN THE MATTER** of hearing submissions and further submissions on the  
Proposed Waikato District Plan

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**LEGAL SUBMISSIONS FOR LOCHIEL FARMLANDS LIMITED  
SUBMITTER NO. 349  
23 SEPTEMBER 2020**

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Next Event Date: 29 SEPTEMBER 2020

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## SUBMISSIONS FOR LOCHIEL FARMLANDS LIMITED

### Introduction

- 1 These submissions are made on behalf of Lochiel Farmlands Limited (**LFL**) and concern its submission and further submission on the Proposed Waikato District Plan (**PWDP**).
- 2 LFL made a submission (#349) on the PWDP in relation to the Rural topic.
- 3 LFL owns a 3,567 hectare property and runs approximately 42,000 stock units. LFL has been farming for 31 years during which time it has entered and been successful in the Balance Environment awards, winning the PPCS (Primary Producers Co-Operative Society Limited, now called Silver Fern Farms) Livestock Farm Award in 2007. LFL was a founding member of the Green Tick project. LFL recognises the importance of sustainability of the environment, however it is also concerned with the restrictive regulatory approach under the PWDP which does not allow for farming practicalities, particularly on large farms.

### Submissions

#### *Rule 22.2.3.1 – Earthworks – General*

- 4 LFL sought an increase in the maximum volume to 2,500m<sup>3</sup> on the basis that the permitted volume of earthworks (as currently provided for in the notified version) is too small (1000m<sup>3</sup> per 12 months).<sup>1</sup> This submission point is supported by Federated Farmers.
- 5 The s 42A reporting author has rejected this submission point on the assumption that “a conversion rate of 1m<sup>3</sup> equating to 2T of aggregate, then the permitted threshold provides for some 70 truck and trailer loads of aggregate material per year.” The author of the report has considered this to be a sufficient threshold to cater for most properties and anything over and above this limit would trigger the need to apply for a resource consent.

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<sup>1</sup> Submission point 349.10

- 6 LFL also submitted that the general standards for permitted earthworks in the Rural zone are too limiting as well as the volume (discussed above), the slope (1:2 slope) and the limit on importation of fill (200m<sup>3</sup>) is too small for Rural ancillary earthworks generally and the cut height (1m) is too low.<sup>2</sup> Mercury NZ opposes the relief sought in this submission point.
- 7 LFL suggested that the earthworks limits for the Rural zone in Thames-Coromandel district are appropriate and therefore should be adopted. The limits proposed by LFL are:
- (a) Maximum volume per site per calendar year 2,500m<sup>3</sup>;
  - (b) Maximum area per site per calendar year is 10,000m<sup>2</sup>(ha); and
  - (c) Maximum height of any fill and/or cut is 5m.
- 8 The reporting author has rejected that submission point on the basis that “those limits are considered generous and if not undertaken appropriately could result in significant adverse amenity and physical effects on the land resource.”
- 9 It is submitted that the Thames-Coromandel Proposed District Plan limits regarding earthworks in the Rural zone should be adopted. Those limits were agreed following an appeal process involving over 70 appellants. The limits were accepted by environmental groups and farmers alike as being both appropriate and necessary. In our submission, the limits are not overly generous and instead take into account the fact that, like much of the north and eastern Waikato, not all of the Thames-Coromandel district is flat and much of it is very hilly.
- 10 Under the current Operative Plan (Franklin) there are no earthworks controls/limits except for quarries. If it is for a farming purpose it is permitted and in our view that is both realistic and reasonable.
- 11 In addition, schedules C and D of the Proposed Waikato Regional Plan Change (**PC1**) set out the standards that farms must comply with in the next 3 years.
- 12 Schedule C of PC1 requires:

**Stock exclusion**

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<sup>2</sup> Submission point 349.11

Notwithstanding any other requirements of this Plan, and except as provided by Exclusions I. and II., farmed cattle, horses, deer and pigs must be excluded from the water bodies listed in 5. below as follows:

1. The water bodies on land:
  - a) with a slope of up to 15 degrees; or
  - b) with a slope over 15 degrees where in any paddock adjoining the water body, the number of stock units exceeds 18 per grazed hectare at any time;

must be fenced to exclude farmed cattle, horses, deer and pigs, unless those animals are prevented from entering the bed of the water body by a stock-proof natural or constructed barrier formed by topography or vegetation.

13 It further requires:

2. New temporary, permanent or virtual fences installed after this chapter becomes operative must be located to ensure farmed cattle, horses, deer and pigs will be excluded from the bed of the water body. The fences must be located at a distance of not less than:
  - a) 3 metres from the edge of any wetlands listed in Table 3.7.7 of the Waikato Regional Plan; and
  - b) 3 metres from the outer edge of the bed for any other waterbodies; and
  - c) 1 metre from the edge of a drain, except for drains where the bank-to-bank width is less than 2 metres in which case no setback from the edge of the drain is required.

14 It is submitted that LFL has kilometres of intermittent water bodies given the nature of the property and it will not be alone in having intermittent water bodies that are not currently fenced. A lot of fencing on hilly properties will need some benching and associated earthworks in order to achieve a stable platform for fencing access and construction.

15 Schedule D1 - part D(6) of PC1 requires:

6. Races, laneways, bridges and other infrastructure
  - a) New races, laneways, culverts and bridges must be designed (including, in the case of races and laneways, through surface contouring and surface drainage channels) and maintained to prevent ponding and to direct runoff to vegetated areas. Direct runoff to surface water or to intermittent flow paths must not occur. Note: direct runoff occurs where there is no filtering effect as a result of contact with vegetation.
  - b) Existing races, laneways, culverts and bridges which were established before this chapter becomes operative shall meet standard 6(a) within three years after this chapter becomes operative.
  - c) New gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of sediment, nutrient and

microbial loss are located to minimise the risks to surface water quality.

- d) Existing gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of sediment, nutrient and microbial loss are re-located to minimise the risks to surface water quality within three years after this chapter becomes operative.

- 16 It is submitted that there will be a significant amount of work that may be required on farm tracks and roadways in order to achieve compliance with PC1. This standard applies to new farm infrastructure immediately and to existing infrastructure over the 3 years following PC1 becoming operative. This will be in addition to the day-to-day use and could mean that a lot of existing tracking will need more farm rock.
- 17 With respect, in our submission the district plan rules need to consider the likely earthworks needs on farms for the lifetime of the plan.

*Rule 22.3.7.5 – Building setback – water bodies*

- 18 LFL sought removal of the 23m building setback from any bank of a river on the basis that it is too far, especially as neither ‘river’ nor ‘water body’ is defined and could mean a water course of any size.<sup>3</sup> This setback applies even if outside a SNA or landscape or Natural Character overlay. Mercury NZ opposes the relief sought in this submission point.
- 19 The s 42A reporting author has rejected this submission on the basis that “*waterway setbacks are an appropriate mechanism by which to control the amenity values of waterbodies as well as preserve their natural character.*”
- 20 LFL is no longer pursuing this submission point.

*Rule 22.4.1.6 – Conservation lot subdivision*

- 21 LFL generally supports the provisions for conservation lot subdivision. This submission point has been accepted in part.

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<sup>3</sup> Submission point 349.19

*Rule 22.4.3 - Title boundaries – Significant Natural Areas, heritage items, Maaori sites of significance and Maaori areas of significance*

- 22 LFL sought to delete 22.4.3 RD1(a)(i)<sup>4</sup> on the basis that it may be difficult for large SNAs. It further submitted that a boundary does not stop an area from being an SNA. Landowners with larger areas of SNA should be encouraged to protect the SNAs as conservation lots and not be required to encompass all of the SNA where it is large.
- 23 LFL also sought that the subdivision that does not comply with standards for Title Boundaries on SNAs and Maaori sites/areas of significance should be **Discretionary**. Heritage NZ opposes these submission points.
- 24 The s 42A reporting author has rejected this submission point, however, has recommended a change in the current wording to say “*containing any of the following*” instead of “*must not divide*”.
- 25 It is submitted that if the standards for Restricted Discretionary activities are not met then it should be Discretionary and not Non-Complying (as it is currently in the notified version of the PWDP). The Discretionary status of the activity still provides the ability to assess a proposal against the objectives and policies of the plan. Non-Complying is too great a hurdle and a proposal will not overcome the objectives and policies hurdle nor will it easily overcome the effects hurdle.

*Rule 22.4.4 – Subdivision – Road frontage*

- 26 It is submitted that this submission point<sup>5</sup> has been incorrectly noted. It appears there was a typo in LFL’s submission to the PWDP (should have referred to 22.4.3 instead of 22.4.4).
- 27 The s 42A reporting author has rejected this submission.
- 28 However, LFL is not asking for any change to 22.4.4.

**Conclusion**

- 29 In conclusion, LFL seeks the following relief:

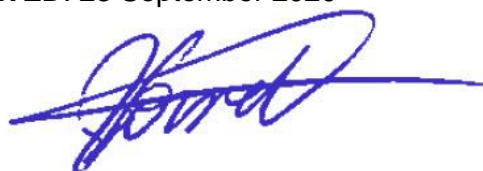
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<sup>4</sup> Submission points 349.24 and 349.6

<sup>5</sup> Submission point 349.25

- (a) *Rule 22.2.3.1 – Earthworks – General* - increase in the maximum annual volume to 2,500m<sup>3</sup>;
- (b) *Rule 22.2.3.1 – Earthworks volumes for other activities* – maximum volume, the slope, the limit on importation of fill and the cut height should be increased as set out in para [7] (above); and
- (c) *Rule 22.4.3 RD1(a)(i)* - delete rule and/or amend the activity status from NC to D.

**DATED:** 23 September 2020



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