



SUBMISSION FORM – Proposed Water Permits Plan Change (Plan Change 7) to the Regional Plan: Water for Otago

Office use only

Form 5, Clause 6 of Schedule 1, Resource Management Act 1991

Full name of submitter:

Name of organisation (if applicable): Pisa Holdings Limited, Rockburn Wines Limited, Mark II Limited, Chard Farm Trustees Limited, Albany Heights Limited, Stuart Douglas Hawker & Phillippa Mary Hawker (Shareholders in Deemed Permit 95789)

Email: will@landpro.co.nz

Postal Address (or alternative method of contact): C/- Landpro Limited, PO Box 302, Cromwell 9342

Telephone: 027 459 8090

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.....

I **wish** / ~~do not wish~~ (circle preference) to be heard in support of my further 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)

Trade competitor's declaration (if applicable)

I ~~could~~ / could not (circle one) gain an advantage in trade competition from this submission

I am / ~~am not~~ (circle one) 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.

Signature of submitter: pp.  Date: 4/5/2020

(Or person authorised to sign on behalf of person making submission. Signature not required if you make your submission by electronic means)

Please note that all submissions are made available for public inspection.

State what your submission relates to and if you support, oppose, or want it amended:
(e.g. support rule 'x', or amend policy 'y')

The shareholders of 95789 oppose the whole of PC7.

State what decision you want the Otago Regional Council to make:
(e.g. amend policy 'y' to say....)

Reject PC7 entirely or:

If PC7 is not withdrawn, then:

1. Provide for existing activities to continue as permitted activities on the same terms and conditions as they are currently issued, including current statutory entitlements, until the new Land and Water Plan is operative. As an alternative, provide for such activities to be re-consented as controlled activities on the same terms and conditions, including statutory entitlements, until the Land and Water Plan is operative;
2. Amend the objective and policies so they do not apply to applications lodged before PC7 was notified;
3. Amend PC7 to recognize the relevance and importance of water abstraction and use for social, cultural and economic reasons;
4. Remove the restrictions on irrigable areas and the requirement to reduce allocation;
5. Remove the stipulation for allocation for controlled activities to be derived from 1 July 2012-30 June 2017;
6. Delete Schedule 10A.4;
7. Allow consent duration to be considered on its own merits in each case;
8. Amend to improve drafting and clarify relationships between provisions;
9. Make all such other changes and grant such other, further and alternative relief necessary to give effect to the reasons for this submission.

Give reasons for the decision you want made:

(e.g. I want policy 'y' changed because...)

The shareholders of Deemed Permit 95789 own and operate a collection of cherry orchards, vineyards and farmland to the northwest of Pisa Moorings, Cromwell. Deemed Permit 95789 authorises the take and use of water from the Amisfield Burn, which drains into Lake Dunstan, with the permit due to expire on October 1st 2021.

From the intake on the upper Amisfield Burn, water is raced across the foothills of the Pisa Range to the consent holders' properties, where it is either stored in small reservoirs for later use or irrigated directly. 95789 water is used to irrigate extensive cherry orchards, vineyards and pasture, along with providing for stock drinking water.

A telemeter located down-race from the intake (as authorised by way of a WEX) has provided an accurate abstraction record from January 2017 onwards, with some manual metering taking place before that.

Significant investment has been made in water infrastructure by all of the permit holders in recent years, including in water storage, race maintenance and upgrades, and extensive irrigation systems. This investment has enabled the permit holders to ensure that water is used in the most efficient manner possible, and continued water security will enable the permit holders to continue making efficiency improvements to the infrastructure, including race and intake upgrades and potential expansion of water storage. There has been some expansion in the total irrigation area serviced by the deemed permit since 2017/18.

The orchards, vineyards and farms serviced by 95789 water all very much depend on security of water supply – particularly in the case high-value crops like cherries and grapes.

The Amisfield Burn, from which water is taken, has been the subject of extensive investigations aimed at better understanding both the ecology and hydrology of the creek, along with anticipated effects on that creek as a result of the activity. The 95789 water take is long-established and the proposal to continue taking water in a similar manner is not expected to result in any adverse effects on instream values.

The consent holders lodged a replacement application for 95789 with Council in January 2020 (RM20.005). It is hoped that the replacement permit sought will provide a term up until 2055.

The requested decision is due to the following factors:

1. The shareholders of Deemed Permit 95789 have acted in good faith and have been preparing for their renewal for some years, being mindful of the previously well-signalled process and efficiencies that would be required to comply with the existing Aqualinc models and undertaking science work to understand the effects of their activities on the instream ecology and hydrology of the Amisfield Burn.
2. Subsequently, significant investment has already been made in consultancy, planning and infrastructure by the consent holders on the orchards, vineyards and farmland serviced by the deemed permit.
3. The shareholders of Deemed Permit 95789 have prepared and lodged their application in a timely manner and it is through no fault on their part that the goal posts have now shifted due to resourcing limitations at

the ORC that have led to an inability to handle the process despite having known about this looming expiry date for Deemed Permits for the last 30 years.

4. There is no need for PC7. The existing Regional Plan Water (RPW) is proving effective at retiring paper water in catchments where that is an issue. The issues with the current RPW that have been identified in the s32 report are not overcome by PC7. Everything identified in PC7 can still be achieved under the existing RPW framework. More detail on this can be found in submissions made by others.
5. PC7 creates inequities between permit holders who have already obtained new, replacement long-term permits (including some since PC7 was notified) and those who are yet to lodge or have their permits granted.
6. The proliferation of long-term replacement permits already granted for deemed permits calls into question the ability of ORC to achieve what it says is the purpose of PC7 - the removal of impediments to implementation of a long-term water allocation regime. PC7 is not supported by any analysis of this matter.
7. There is no identification of the significant transactional costs incurred by the council, applicants and any other participants in not one but two consent processes in the s32 evaluation. Intangible costs (such as stress and anxiety) are ignored. There is also no proper identification of the social, cultural, economic and environmental costs and benefits of PC7 in the s32 evaluation and no attempt has been made to quantify costs and benefits to enable an informed assessment of costs and benefits to be made.
8. PC7 creates investment uncertainties and the s32 evaluation fails to acknowledge the resulting opportunity costs. Ultimately, the s32 report is deficient and cannot be relied upon to support the plan change.
9. Great progress has already been made by many permit holders in improving their water use efficiency and environmental performance. Implementing PC7 will stop any progress to improve water use efficiency in its tracks as short duration permits will not enable investment in the required infrastructure or efficiency upgrades.
10. Horticultural and viticultural enterprises are not static systems, and in particular are regularly changing or replanting cultivar varieties to respond to variations in market demand or replace aging crops. None of this will be possible under the PC7 framework, due to the difficulties in gaining financing.
11. Existing objectives, policies and rules in the operative RPW and the relevant provisions of the NPSFM are achieving reductions in "over-allocation" and efficiencies in water allocation and use. PC7 does not address those issues; at most it "holds the line" (p 15 of the s32 report). As such, PC7 is unnecessary. Correspondingly, where environmental benefits are able to be achieved, they can be achieved through the NPSFM and operative RPW provisions.
12. Schedule10A.4 is fundamentally flawed and completely misunderstands irrigation. Seasons and crops do not have average years. Demand and supply is highly variable. Calculating actual usage should be just that – actual usage. In addition, metering these intakes is a relatively new thing. There were challenges in establishing a meter on the water take early on due to there not being a sufficient number of qualified providers able to get one established in a remote location with poor reception and accessibility. The complexities associated with the location of the intake and race also means that accurate records have only been obtained from 2017.
13. We are concerned that the cost of the proposed resource consent process could place permit holders under undue pressure from a cashflow perspective. Many struggle to fund long term consent applications, let alone having to go through it twice (once now and again in 6 years). It can take 6 years to gather the data and do the research to lodge an application! None of this is the fault of permit holders and so it is unfair to force them to cover the cost of applying under PC7.
14. There is no explanation as to why PC7 limits the irrigation area to the 2017-2018 season, nor is there any evidence indicating what this is intended to achieve or why the 2017-2018 year would achieve this more than the 2018-2019 season. By placing this limit in PC7, permit holders cannot increase efficiency by, for example, moving from flood irrigation to spray irrigation over a larger area, or by improving/upgrading existing spray irrigation systems. There is no apparent benefit achieved by this rule, and no reason why permit holders should have their irrigation areas restricted provided there is no exceedance of agreed allocation limits.

15. Under PC7, any application which does not meet the controlled activity thresholds is a non-complying activity. Despite the possibility that consent may be granted, the reality is that it is very unlikely any consent could be granted which did not conform to the policies in PC7, especially 10A.2.1.
16. The expectations of the policies, conditions of the rules and matters of control in the rules in PC7 do not enable a "short term relatively low-cost consent" as identified by the Council as the expected outcome of the PC7 process. In order to provide information to satisfy the PC7 provisions, permit holders will need to engage expert consultants to:
 - a. review and evaluate water use records,
 - b. interrogate the abstraction data using the proposed methodology (this is not simple and cannot be done by individual permit holders),
 - c. understand the subject properties and land uses in terms of water use, soil types and irrigation areas,
 - d. undertake water use efficiency calculations using, for example, Aqualinc methodology,
 - e. research and understand any instream ecological values to be able to recommend whether fish screens may or may not be appropriate,
 - f. research and understand hydrological flow patterns, alongside any fish values, to provide an assessment of whether fish passage is required.
17. Reviewing a consent is already provided for in the RMA through section 128(1)(b). Any new limits that may be introduced under the future Land and Water Regional Plan can be brought in through a review. This would address one of the key issues that PC7 is trying to address.
18. PC 7 should not apply to persons who lodged applications for water permits before PC 7 was notified. The applications were prepared in accordance with the preceding planning framework and to apply the objective and policies of PC7 to those applications is unfair and inappropriate; the objective and policies should be amended accordingly.
19. PC7 is poorly drafted. Use of double negatives makes for turgid provisions which are difficult to read, understand and apply. The interaction between policies and rules is difficult to comprehend.
20. As a package, the policies and rules are arbitrary - including the restriction on irrigable areas, reduction in allocations and limitations on consent durations. There are no principles set out for reducing allocations for either controlled or non-complying takes.
21. PC7 does not promote sustainable management, does not give effect to the relevant provisions of the NPSFM, does not give effect to the operative Regional Policy Statement, and does not have proper regard to the settled provisions of the proposed Regional Policy Statement.
22. A short term consenting framework for existing permits that did not cost permit holders anything might be acceptable whereby no information is required to be researched, prepared, submitted, and audited by ORC (as all of these steps incur substantial costs and of note is that agreement with ORC staff on some of the above points is often time consuming and costly already), but is not preferred because:
 - a. In many catchments it is not necessary. PC7 should be targeted to those places that actually need it (wherever they are).
 - b. It will discourage investment in efficient infrastructure and efficient uses of water. It also prevents investment in higher-value uses of water.
 - c. It will discourage permit holders from working with other stakeholder to achieve environmental benefits (e.g. proposing residual flows for the individual waterbodies)
 - d. Now, more than ever, farms, vineyards and orchards should be investing in things that actually support the economy, not putting the economy on hold for 6 years. PC7 should encourage seeking long term consents under existing rules where that is possible and not cut that off as an option.

23. To "hold the line", PC7 could enable existing takes to continue as permitted activities on the same terms and conditions as at present, including associated statutory entitlements (such as under s124-124B and s413) until the new Land and Water Plan is operative. Alternatively, the controlled activity rules should be amended to this end.
24. There has been a complete failure to assess the costs and benefits of PC7 compared with alternatives (including doing nothing). So PC7 should be rejected entirely.

SUBMISSIONS MUST BE RECEIVED BY 5.00 PM ON Friday 17 April 2020

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Deliver to Otago Regional Council offices at:

- 70 Stafford Street, Dunedin
- William Fraser Building, Dunorling Street, Alexandra
- Terrace Junction, 1092 Frankton Road, Queenstown

Online at www.orc.govt.nz/WPPC

Please note:

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.