

Barrister

Canterbury Chambers

Level 1
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4 July 2018

To:
Rachel Blackburn
Resource Management Officer
Environment Canterbury
TIMARU

Copy to:
Justin McLauchlan
South Canterbury Manager
Environment Canterbury
TIMARU

By email only

Re: Simons Pass Station Ltd – Baseline Survey

1. I refer to your letter to _____ dated 22 June 2018 regarding the Baseline Survey reports prepared for Simons Pass Station Limited ("SPSL") for the purposes of condition 86 of the SPSL water permit.
2. The specific comments made by Dr Grove and Dr Patrick have been referred to the relevant experts who prepared the reports for SPSL and their comments have been sought. You suggest that a meeting of the authors of the surveys and the Environment Canterbury assessors may be of benefit. It is agreed that this is likely to assist with determining whether any further work is required. In particular, it would be useful for Dr Grove to understand the work that Professor Norton is intending to carry out in the Dryland Recovery Area, and also the further work that he is currently undertaking towards preparation of the Dryland Recovery Management Plan, including the material and management options that are proposed for inclusion in that document.
3. However, in my view there are some fundamental issues regarding the purpose of the Baseline Survey and the interpretation of condition 86 that need to be resolved before the experts meet.
4. Your summary of the conditions provided to the ECan assessors does not include any reference to the specific wording of condition 86, but rather focuses on the objectives of the Dryland Recovery Management Plan, which is the next step in the process. While this is relevant to the extent that the baseline survey results are to be used for the Management Plan, the specific requirement of condition 86 should be the reference point against which the baseline surveys are assessed.

5. I am concerned that the instructions given to Dr Grove and Dr Patrick instead appear to import the objectives of the Dryland Recovery Management Plan into the first stage of preparation of the Baseline Survey. The specific requirement of condition 86 is that a baseline survey of the population densities of the species and communities listed at condition 88 will be prepared. The Dryland Recovery Management Plan is then to be prepared using these baseline results. The purpose of the baseline survey is to provide an up-to-date assessment of the values of the Dryland Recovery Area so that the Dryland Recovery Management Plan can be written to achieve the objective of promoting and achieving the recovery of indigenous dryland ecosystems within the area, over a long term period. It is the Dryland Recovery Management Plan that will direct the further monitoring that will occur over time and the other steps that will be taken to achieve the long term objective for the Dryland Recovery Area.
6. A further fundamental point in relation to the Dryland Recovery Area was not included in the instructions provided to the assessors. The instructions do not refer to the fact that recovery of the indigenous dryland ecosystems within the dryland recovery area is a long term goal. Dr Grove similarly does not refer to this in his assessment. Condition 87 specifically states the objective of the Dryland Recovery Management Plan is promoting and achieving the recovery of the indigenous dryland ecosystems within the dryland recovery area over a long term period (more than 30 years) by restoration management. The fact that recovery is a long term goal of the area should have been clearly communicated to the assessors.
7. In the preliminary comments received from SPSL's experts, the point has been made that a judgement will be required when the Dryland Recovery Management Plan is prepared as to the allocation of financial and time resources to monitoring versus management. Condition 95 refers to at least \$100,000 per annum being contributed towards implementing the Dryland Recovery Management Plan. That is the commitment made by SPSL, but resources are not unlimited. SPSL's experts make the point that it would be possible to spend most or even all of the \$100,000 allocation on monitoring in pursuit of accurate measurements. However, that would not be an appropriate approach and would not achieve the stated goals for the Dryland Recovery Area. Instead, the experts favour an approach whereby sufficient monitoring is undertaken to measure change over the long run, with most resources directed to achieving management outcomes. The experts note that in practice, a 'baseline' of species population estimates will build up over time with repeated measurements, that can be provided for in the Dryland Recovery Management Plan. This would allow an assessment of trends over the long run and be consistent with the long term focus of recovery of the ecosystems within the Dryland Recovery Area.
8. Your letter also indicates that the Baseline Survey reports were "*assessed regarding whether, or to what extent, the baseline surveys will be able to demonstrate that potential adverse impacts on ecological values of the Dryland Reserve have been avoided or mitigated*". That requirement is not set out in the consent conditions, either for the Baseline Survey reports, or indeed in relation to the Dryland Recovery Area in general. It is unclear on what basis that has been included in the assessment matters for the Baseline Survey.

9. The above matters will need to be discussed in more detail at our meeting tomorrow.

Yours faithfully

Barrister